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code of federal regulations

National Defense

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773

32

PARTS 800 TO 999

Revised as of July 1, 1982

022-003-94813-9

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National Defense

32

PARTS 800 TO 999

Revised as of July 1, 1982

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Table of Contents

	Page
Explanation	v
Title 32:	
Subtitle A—Department of Defense (Continued):	
Chapter VII—Department of the Air Force	5
Finding Aids:	
Table of CFR Titles and Chapters	701
Alphabetical List of Agencies Appearing in the CFR	715
List of CFR Sections Affected	723

Cite this Code **CFR**

thus: **32 CFR 801.0**

Explanation

The Code of Federal Regulations is a codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. The Code is divided into 50 titles which represent broad areas subject to Federal regulation. Each title is divided into chapters which usually bear the name of the issuing agency. Each chapter is further subdivided into parts covering specific regulatory areas.

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Each volume of the Code is revised at least once each calendar year and issued on a quarterly basis approximately as follows:

Title 1 through Title 16 ..... as of January 1
Title 17 through Title 27 ..... as of April 1
Title 28 through Title 41 ..... as of July 1
Title 42 through Title 50 ..... as of October 1

The appropriate revision date is printed on the cover of each volume.

LEGAL STATUS

The contents of the Federal Register are required to be judicially noticed (44 U.S.C. 1507). The Code of Federal Regulations is prima facie evidence of the text of the original documents (44 U.S.C. 1510).

HOW TO USE THE CODE OF FEDERAL REGULATIONS

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The Paperwork Reduction Act of 1980 (Pub. L. 96-511) requires Federal agencies to take steps to reduce the Federal paperwork burden for individuals, small businesses and State and local governments, as well as to maximize the usefulness of information collection. One specific requirement of the Act is for Federal agencies to display an OMB control number with the information collection request.

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JOHN E. BYRNE,
Director,
Office of the Federal Register.

July 1, 1982.

THIS TITLE

Title 32—NATIONAL DEFENSE is composed of eight volumes. The parts in these volumes are arranged in the following order: Parts 1-39 (Volumes I, II and III), Parts 40-399, Parts 400-699, Parts 700-799, Parts 800-999, and Part 1000 to end. The contents of these volumes represent all current regulations codified under this title of the CFR as of July 1, 1982, with the exception of Parts 1-39 (Volumes I, II and III).

The Armed Services Procurement Regulations (ASPR) comprise the first 3 volumes of Title 32. For the ASPRs the Code of Federal Regulations numbering system has been waived, for an explanation see the Explanation pages in Parts 1-39, Volumes I, II and III. A subject index for all the ASPRs appears in Volume III.

The current regulations issued by the Department of the Army appear in the volume containing Parts 400-699; those issued by the Department of the Navy appear in the volume containing Parts 700-799, and those issued by the Department of the Air Force appear in the two volumes containing Part 800 to end.

For this volume Mildred Lee Isler was Chief Editor, assisted by Donna L. Rickett. The Code of Federal Regulations publication program is under the direction of Martha B. Girard, assisted by Robert E. Jordan.

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Title 32—National Defense

(This book contains Parts 800 to 999)

SUBTITLE A—Department of Defense (Continued)

Part

CHAPTER VII—Department of the Air Force 801

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Subtitle A—Department of Defense—Continued

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CHAPTER VII—DEPARTMENT OF THE AIR FORCE

(Parts 800 to 999)

SUBCHAPTER A—ADMINISTRATION

Part		*Page*
800	[Reserved]	
801	Industrial labor relations activities	10
802	Air Force Technical Order System	16
803	Disposition of personal property	32
806	Disclosure of Air Force records	42
806b	Air Force Privacy Act program	56
807	Issuing Air Force publications and forms outside the Air Force	81
809a	Enforcement of order at Air Force installations, control of civil disturbances, support of disaster relief operations, and special consideration for overseas areas	82
809b-809c	[Reserved]	
809d	Procedures for reporting on defense related employment	85

SUBCHAPTER B—SALES AND SERVICES

810	[Reserved]	
811	Sale or release of audiovisual documentation	87
811a	Audiovisual documentation program	93
812	User charges	94
813	Schedule of fees for copying, certifying and searching records and other documentary material	98
814	[Reserved]	
815	Persons authorized medical care	98
816-817	[Reserved]	
818	Financial responsibility	121
818a	Personal commercial affairs	130
818b	Legal assistance program	134
819	Providing environmental services to nonmilitary agencies and individuals	137

Part		Page
819a	Aviation fuel and oil issues to contract, charter, and civil aircraft	138

SUBCHAPTER C—PUBLIC RELATIONS

821	Mission and functions of the USAF Air Demonstration Squadron, "Thunderbirds"	151
822	Information audiovisual (AV) activities	152
823	Individuals and organizations	157
824	Air Force participation in public events.	162
825	Air Force newspapers, base guides, and directories	172
825a	Gifts to the Department of the Air Force	186
826	[Reserved]	
827a	Release of information on accidents	198
828	Rewards for recovery of lost Air Force property	205
829	Organizing and operating off-base patrols	206
832	Employment of Civil Air Patrol	207
834	Selecting architect-engineers for professional services by negotiated contracts	217
835	Support of nongovernmental test and evaluation	220
836	Release of information relating to criminal proceedings	222
837	Support of nongovernment groups	225
838	Granting temporary use of real property	229

SUBCHAPTER D—CLAIMS AND LITIGATION

840	Releasing information for litigation and appearance of witnesses before civilian courts and other tribunals	235
841	Licensing government-owned inventions in the custody of the Department of the Air Force	237
842	Administrative claims	243
843	Statutory reimbursement for land	308
844	Distribution of literature and protest and dissident activities	312
845	Counsel fees and other expenses in foreign tribunals	313
846	[Reserved]	
847	Authentication of official Air Force records for admission into evidence	317
848	Foreign tax relief program	318

SUBCHAPTER E—SECURITY

850	Information security program	321
851	Protection of USAF resources	386
852	Motor vehicle traffic supervision	394

Part		Page
853	[Reserved]	
	SUBCHAPTER F—AIRCRAFT	
855	Use of United States Air Force installations by other than United States Department of Defense aircraft	404
856	Aircraft arresting systems	415
859	Non-Air Force pilots flying Air Force test aircraft	420
860	Contractor's flight operations	421
862	U.S. Air Force responsibilities for aircraft leased for airshows	438
	SUBCHAPTER G—ORGANIZATION AND MISSION—GENERAL	
865	Personnel Review Boards	441
	SUBCHAPTER H—[RESERVED]	
	SUBCHAPTER I—MILITARY PERSONNEL	
880	Obtaining medical, dental, and veterinary care from civilian sources	460
881	Determination of active military service and discharge for civilian or contractual personnel	466
882	[Reserved]	
883	Military justice	469
884	Delivery of Air Force personnel to U.S. civilian authorities for trial	472
885	Appointment of officers in the Regular Air Force	474
886	[Reserved]	
887	Issuing certificates in lieu of lost or destroyed certificates of separation	486
888	Enlistment in the U.S. Air Force	488
888a-888d	[Reserved]	
888e	Disposition of conscientious objectors	515
888f	[Reserved]	
888g	Organizational and representational activities of military personnel	525
888h	Separation documents and general separation procedures	535
889	Desertion and unauthorized absence	543
	SUBCHAPTER J—CIVILIAN PERSONNEL	
890	Filling positions	548
891	Security program	557

Part		Page
892	Part-time career employment program	563
	SUBCHAPTER K—MILITARY TRAINING AND SCHOOLS	
901	Appointment to the United States Air Force Academy	567
902	Officer Training School, USAF (OTS)	573
903	Air Force Academy Preparatory School	595
904-908	[Reserved]	
909	USAF training for contractor employees	599
	SUBCHAPTER L—STANDARDS OF CONDUCT	
920	Standards of conduct	602
	SUBCHAPTER M—ANIMALS	
930	USAF military working dog program	625
931	Animals in DOD research and training	629
932	Prevention and control of communicable diseases of animals	630
	SUBCHAPTER N—TERRITORIAL AND INSULAR REGULATIONS	
935	Wake Island Code	632
936-949	[Reserved]	
	SUBCHAPTER O—SPECIAL INVESTIGATION	
950	Authority to administer oaths	647
951	Air Force office of special investigations special agents	647
952	Requesting AFOSI investigations and safeguarding, handling, and releasing information from AFOSI reports	648
953	Fraud and violations of public trust in contract, acquisition, and other matters	654
954	Acquisition of information concerning persons and organizations not affiliated with the Department of Defense	656
955	Obtaining financial data information	659
	SUBCHAPTER P—INTELLIGENCE	
959	Restrictions on foreign intelligence activities	673

Part		Page
960	Intelligence oversight	676

SUBCHAPTER Q—MEDICAL SERVICE

968	Policy for drug company representatives	677

SUBCHAPTER R—[RESERVED]

SUBCHAPTER S—RECREATION

983	Recreation activities and service program	678
984	Air Force aero clubs	686
985-987	[Reserved]	
988	Weather modification	694
989-999	[Reserved]	

SUBCHAPTER A—ADMINISTRATION

PART 800 [RESERVED]

PART 801—INDUSTRIAL LABOR RELATIONS ACTIVITIES

Sec.

801.0 Purpose.

Subpart A—Background Policy

801.1 How the program is organized.
801.2 Representing the Air Force.

Subpart B—Operating Procedures for Reporting and Dealing With Labor Disputes

801.3 Labor disputes at contractor plants.
801.4 Removing items from contractor's plant during a strike.
801.5 Labor dispute at an Air Force installation.
801.6 Reserve gate procedure.
801.7 Continuing work activities during a labor dispute.
801.8 Handling industrial relations disputes at an overseas command.

Subpart C—Contract Labor Standards Application, Administration, and Enforcement

801.9 Investigations of service or supply contracts.
801.10 Investigations of construction contracts.
801.11 Submitting the labor standards enforcement report—RCS: 1482-DOL-SA.
801.12 Requesting wage determinations.

Subpart D—Equal Employment Opportunity and Socio-Economic Programs

801.13 Equal Employment Opportunity (EEO).
801.14 Other socio-economic programs.

Subpart E—Using In-House and Employing Off-Duty Military Personnel

801.15 Using in-service personnel in carrying out an Air Force program.
801.16 Approving the off-duty employment of military personnel.

Subpart F—Admitting Labor Union Representatives to Installations

801.17 Policy on admission.
801.18 Setting up a local procedure.
801.19 Organizing activities.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: 45 FR 3030, Jan. 16, 1980, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation 78-1, February 12, 1979.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 801.0 Purpose.

This part outlines Air Force policies and procedures required to protect Air Force interests in contracting and operational matters involving the industrial labor relations activities of Air Force contractors and contractor employees. It applies Air Force-wide to commanders, contracting officials, individuals involved directly or indirectly in industrial labor relations matters, labor law, or contractor equal employment opportunity programs. This part implements DOD Instruction 4000.24, August 25, 1970, Defense Acquisition Regulation (DAR), and Executive Order 11246, as amended.

Subpart A—Background Policy

§ 801.1 How the program is organized.

(a) The Director of Contracting and Acquisition Policy, or designee, directs the Air Force-wide Industrial Labor Relations, Labor Law Enforcement and Equal Employment Opportunity Programs.

(b) Industrial Labor Relations Advisors assigned to specific geographic areas of responsibility in the 50 States, responsive to HQ USAF policy direction, provide field-level support. Each Industrial Labor Relations Advisor:

(1) Coordinates program operations.

(2) Furnishes guidance and assistance to Air Force commands and installations located within a specific geographical area, and

(3) Prepares annually alphabetic RCS:DD-I&L(A) 1040 geographical area report on all labor management agreements in contractor plants under the Air Force.

(c) Major command, separate operating activities and installations designate, from existing personnel strengths, a staff member as focal

point, responsible for direct contact and liaison with the Industrial Labor Relations Advisor. The selectee must have ready access to the commander in the event of a labor dispute. Each command and installation lets the USAF Industrial Labor Relations Advisor know the name, address, and telephone number of the designated monitor and alternate, and furnishes timely notice of changes. This does not preclude direct communication between the Industrial Labor Relations Advisor and the commander and staff members as the situation dictates.

§ 801.2 Representing the Air Force.

(a) HQ USAF, Director of Contracting and Acquisition Policy, or designee, acts on industrial labor relations matters for the Air Force in both personal contacts and correspondence with national headquarters of Federal agencies and employer associations, and with national and international headquarters of labor union organizations.

(b) Major commands and separate operating activities are limited to those contacts with the headquarters as prescribed by regulation or as specifically authorized by the HQ USAF Director of Contracting and Acquisition Policy. However, commanders are encouraged to communicate with local union officials as the need arises, and to include local labor organizations in their community relations programs.

(c) An Air Force official who responds to a complaint or an inquiry involving Air Force industrial labor relations policies or procedures, or who is confronted with an industrial labor relations matter not covered by this part, must coordinate with the Industrial Labor Relations Advisor before responding or taking independent action.

(d) The collective bargaining rights and obligations of employers and employees are established by law. Air Force members:

(1) Must not interfere with or try to influence collective bargaining or labor disputes between contractors and labor unions representing contractor employees.

(2) Must cooperate with Federal and State agencies that have statutory or assigned responsibilities relating to industrial labor relations activities in Air Force operations and,

(3) Must refer any question or problem on another Government agency's responsibility in the Air Force Industrial Labor Relations program to the Industrial Labor Relations Advisor for assistance.

Subpart B—Operating Procedures for Reporting and Dealing With Labor Disputes

§ 801.3 Labor disputes at contractor plants.

(a) When notice of a labor dispute is received from any source, the contracting officer immediately:

(1) Telephones a report of the strike or threat of strike to the Industrial Labor Relations Advisor and the labor relations coordinator at the major command headquarters, and,

(2) Prepares DD Form 1507, DOD Work Stoppage Report, RCS:DD-I&L(AR)1153 and sends a copy to:

(i) Major command headquarters (Attn: Contracting).

(ii) Industrial Labor Relations Advisor for the region in which the plant is located.

(iii) Buying office(s).

(iv) HQ USAF/RDC.

(v) Offices requested by HQ USAF/RDC.

(3) Prepares and distributes to the above addresses, DD Form 1507 follow-on reports of each significant event in the labor dispute, including a final report on settlement.

(b) When the buying office receives information that there is a labor dispute at a contractor plant, the acquisition officer determines the degree of impact on the procurement schedule of contract completion threatened by the potential or actual work stoppage. If the assessed impact is considered significant, the buying office immediately reports such information to its major command headquarters contracting office.

(c) The major command headquarters reviews the impact data from the buying office(s), and if the potential or actual work stoppage threatens command operations or a particular

project or program, the command headquarters prepares and sends an impact report to HQ USAF/RDC. They also send a copy to the Industrial Labor Relations Advisor.

(d) Contracting officers who administer contracts are responsible for reporting strikes involving Air Force subcontractors. If the subcontractor involved is under the cognizance of another DOD agency and the situation is being reported by that agency, the Air Force report must indicate the strike impact on Air Force acquisition. If the subcontractor's strike is not being reported by another agency, the office administering the Air Force contract submits a DD Form 1507 as outlined above.

§ 801.4 Removing items from contractor's plant during a strike.

Care must be taken to avoid the use of force or the appearance of force in removing items from a contractor's facility during a strike. Use the procedure in DAR when materials which are strike-bound must be moved, and the contractor is unable to deliver because of the work stoppage.

§ 801.5 Labor dispute at an Air Force installation.

Contracting officers are responsible for reporting a strike or picketing against contractors at Air Force installations.

(a) Upon receiving notice from a contractor that a labor dispute may delay work on a contract at a base, or on receipt of information from any source that there is a potential or actual labor dispute, the contracting officer:

(1) Immediately telephones reports to the Industrial Labor Relations Advisor and to the labor relations coordinator at the major command headquarters concerning the labor dispute, actions the contractor took to settle the matter, and the possible impact on installation operations, support services, and on active or projected construction projects. The Industrial Labor Relations Advisor assesses the labor dispute situation and discusses it with the commander who decides on courses of action consistent with this part to minimize impact on the installation. The Industrial Labor Relations Advisor also furnishes on-site assistance, as needed.

(2) Prepares the initial DD Form 1507 and sends one copy to:

(i) Major command headquarters (Attn: Contracting).

(ii) Industrial Labor Relations Advisor for the region in which the installation is located.

(iii) HQ USAF/RDC.

(iv) Offices requested by HQ USAF/RDC.

(3) Prepares DD Form 1507 follow-on reports and sends them to the above offices as each significant event occurs in the potential or actual labor dispute and a final report when the dispute is settled.

(b) In some cases, contractors are capable of contract performance through the use of nonstriking personnel and new hires. If the contractor cannot work as required, and the work is necessary for health, sanitation, safety or other reasons, in-house personnel may be used in lieu of contractor personnel. This may be done only after coordinating with HQ USAF through the Industrial Labor Relations Advisor. In no case will the command direct Air Force military or civilians to supplement the contractor's nonstriking work force to carry out the contract. The services required must be performed exclusively by Air Force employees and not a mix of Air Force and nonstriking contractor employees.

(c) To ensure Air Force neutrality and to prevent base personnel from becoming involved in a situation that would endanger their safety or the Air Force mission, the commander issues instructions for base members to refrain from expressing a position on the merits of the labor-management dispute. In the event of picketing, the commander initiates the reserve gate procedure in § 801.6 of this part.

§ 801.6 Reserve gate procedure.

Picketing and other demonstrations involving labor disputes generally are not permitted within the confines of Air Force installations or controlled sites. In cases involving a demonstration or picketing outside an installation, Air Force limits action to mini-

mizing impact on Air Force programs or missions. In most cases, picketing outside an Air Force installation or base can be limited to a single gate designated for that purpose. If picketing is anticipated or actually occurs, the commander initiates the reserve gate procedure. This procedure allows the union to picket one gate (except in certain limited situations where more than one gate may be designated by the commander). At the same time it gives employees of contractors not involved in the dispute access to the worksite without crossing a picket line.

(a) As soon as pickets appear or notice is received of possible picketing, the commander:

(1) Lets the Industrial Labor Relations Advisor know;

(2) Designates a staff official to serve as the labor relations focal point for coordinating actions and furnishing information;

(3) Issues a statement for the daily bulletin informing military and civilian personnel of the labor situation, the Air Force policy of neutrality and the need to obey the special traffic instructions;

(4) Requests the physical presence of the Industrial Labor Relations Advisor if there is the possibility that disorders may occur;

(5) Ensures that a special log of events and activities at the gate and at the picket line areas is maintained; and

(6) Contacts local civil law enforcement officials to review installation boundaries and jurisdiction and to ensure open and safe travel on public access routes to and from the installation, if necessary.

(b) After reviewing mission requirements, the proximity of the affected project, and the installation layout, the commander, with the advice and assistance of the Industrial Labor Relations Advisor, designates a gate or entrance for use by the contractor involved in the dispute, the contractor's employees, vendors and suppliers.

(1) Signs must be conspicuously placed at the reserved gate so as to be easily read by vehicle operators and pedestrians entering or leaving the base. The signs should contain the following wording: NOTICE: THIS ENTRANCE MUST BE USED BY EMPLOYEES, VENDORS, AND SUPPLIERS OF (Name of contractor involved in dispute), BY ORDER OF THE BASE COMMANDER:

(2) Signs should be placed at all other base entrances to read: NOTICE: EMPLOYEES, VENDORS, AND SUPPLIERS OF (Name of contractor)
MUST USE THE

ENTRANCE TO
AIR FORCE BASE, BY ORDER OF THE BASE COMMANDER. ----------

(c) During the course of picketing the commander:

(1) Ensures the contractor's personnel, suppliers and vendors use only the designated gate;

(2) Ensures that guard personnel constantly monitor all gates for compliance (use of other gates by personnel involved in the dispute may result in the union legally picketing all gates to the installation);

(3) Lets the local civil law enforcement authorities know of the disturbances outside the Air Force boundaries;

(4) Lets the primary employer, its vendors and suppliers and the union or unions involved know which gate has been designed for their use;

(5) Lets the Industrial Labor Relations Advisor know of any failure by the union to confine picketing to the designated gate, or use by personnel involved in the dispute of other than the designated gate(s).

§ 801.7 Continuing work activities during a labor dispute.

(a) The Air Force expects its members to continue the normal and regular installation or contractor plant functions during a labor dispute.

(b) If there is a reason to believe that the physical safety of Air Force personnel entering or working at the Air Force installation or plant would be endangered by strike and picketing activities, the Air Force official in charge asks the Industrial Labor Relations Advisor for help in arranging the safe entry and exit of Air Force employees.

§ 801.8 Handling industrial relations disputes at an overseas command.

Industrial labor relations activities at overseas commands are usually governed by the laws and regulations of the host country. This includes labor disputes and employment conditions involving host country nationals working for Air Force contractors. However, oversees commands must comply with this part where possible in administering their industrial labor relations affairs. Refer questions or problems on how US labor laws apply in overseas areas, or requests for industrial labor relations help, to HQ USAF/RDC.

(a) Due to the time delays inherent in receiving DD Form 1507 messages from overseas, the commander, his designee, or the contracting officer:

(1) Immediately telephones HQ USAF/RDC of labor situations where actual or potential work stoppages may impact on Air Force programs or contracts.

(2) Follows each telephone report with a DD Form 1507 message.

(3) Continues daily telephone reports until the situation stabilizes.

(b) When possible, telephone during duty hours (0730-1700 EST) to HQ USAF/RDC. If it is necessary to call at other hours, complete the call through the Pentagon switchboard to the home of the Supervisory Industrial Labor Relations Specialist, or designee. (These numbers are furnished to overseas commands periodically.)

(c) Overseas commands must furnish HQ USAF/RDC with a directory of key individuals and their duty and home phones, updated as necessary.

Subpart C—Contract Labor Standards Application, Administration, and Enforcement

§ 801.9 Investigations of service or supply contracts.

When a contracting officer receives a complaint or other evidence of violation of a service or supply contract the information or complaint is promptly referred in writing to the Regional Officer of the Department of Labor. An information copy is sent to the Industrial Labor Relations Advisor to ensure a prompt investigation. The Industrial Labor Relations Advisor monitors the Department of Labor's progress at least once every 30 days. The Industrial Labor Relations Advisor may refer completed Department of Labor service contract investigations to the ACO for recommendations on debarment and the assessment of liquidated damages.

§ 801.10 Investigations of construction contracts.

The contracting officer refers complaints or other evidence of contract violations to the Industrial Labor Relations Advisor to determine whether a full scale investigation should be made, and a case number assigned.

(a) In cases involving several locations or multiagency interest, the Industrial Labor Relations Advisor(s) or HQ USAF/RDC may request an investigation by the Department of Labor.

(b) The installation commander, or designee, appoints an investigating officer as soon as it is determined that there should be an investigation.

(c) The investigating officer conducts the investigation full time without interruption following the directions set forth in DAR. The investigating officer may request additional guidance and assistance from, and coordinate closely with, the Industrial Labor Relations Advisor.

(d) The investigating officer makes a progress report to the Industrial Labor Relations Advisor at least every 2 weeks.

§ 801.11 Submitting the labor standards enforcement report—RCS: 1482-DOL-SA.

Each Base Contracting Office and Contract Administration Office prepares the semiannual report required by the Department of Labor and DAR, and sends it to the Industrial Labor Relations Advisor within 10 calendar days after the end of each 6-month period.

§ 801.12 Requesting wage determinations.

The contracting officer requests wage determinations as set forth in DAR. Assistance in expediting wage determinations may be obtained from

the Industrial Labor Relations Advisor. The contracting officer reviews each determination promptly upon receipt to ascertain if the wages vary substantially from those believed to prevail in the area. If a variance appears to exist, it is referred to the Industrial Labor Relations Advisor.

Subpart D—Equal Employment Opportunity and Socio-Economic Programs

§ 801.13 Equal Employment Opportunity (EEO).

Instructions on Equal Employment Opportunity (EEO) requirements are set forth in DAR. Complaints and requests for preaward clearances must be referred in a timely manner to the Regional Office of the Office of Federal Contract Compliance Programs (OFCCF) where the work is to be performed. Refer requests to expedite preaward clearances to the Industrial Labor Relations Advisor. Contracting offices must give written notice to the Director, OFCCF, within 10 work days of award of all construction contracts in excess of $10,000. The Industrial Labor Relations Advisor promptly refers new Hometown Plans on construction projects, changes to existing plans, goals and time tables, etc. to the appropriate acquisition offices.

§ 801.14 Other socio-economic programs.

The Director of Contracting and Acquisition Policy, or designee, administers matters pertaining to Listing of Employment Openings for Veterans, Employment of the Handicapped, Employment of Disabled and Vietnam era Veterans, and other socio-economic programs. As they are developed, they are implemented in the DAR and administered within the Air Force through the industrial labor relations program.

Subpart E—Using In-House and Employing Off-Duty Military Personnel.

§ 801.15 Using in-service personnel in carrying out an Air Force program.

(a) Programs, including new starts, involving the possible use of in-house resources (military or civilian) should be examined with care during the planning stage to ensure that such programs conform to basic Government, DOD and Air Force policy.

(b) Industrial Labor Relations Advisors assist commanders to minimize difficulties arising from the use of in-house personnel by providing an analysis of the local labor climate for the area(s) involved in the proposed program(s).

§ 801.16 Approving the off-duty employment of military personnel.

The Air Force does not permit its off-duty military personnel to work at an hourly rate of pay less than the minimum or prevailing wage. It also does not permit off-duty employment in jobs temporarily vacated by a firm's striking employees. However, off-duty Air Force military personnel who were employed by a contracting firm before it became involved in a labor dispute need not be required to terminate employment solely because of the dispute (see Part 920 of this chapter).

Subpart F—Admitting Labor Union Representatives to Installations

§ 801.17 Policy on admission.

Labor union representatives are admitted to Air Force installations when they are engaged in legitimate union business with their members employed by on-base contractors, or to meet with Air Force or contractor officials regarding union business; provided such activity does not violate safety or security regulations nor is disruptive of base operations or work progress.

§ 801.18 Setting up a local procedure.

The commander, in coordination with the Industrial Labor Relations Advisor, may establish a procedure governing admission of labor union representatives.

(a) Such procedures will make it clear that permission to enter the base does not grant the right to enter secure or controlled areas, hold meetings, collect dues, make speeches or engage in activities disruptive of Air Force operations.

(b) If passes are required for public admission to an installation, the local procedure may include arrangements for issuance of indefinite passes to regularly visiting labor union representatives.

§ 801.19 Organizing activities.

(a) Union representatives will be allowed to visit contractor employees for organizational purposes subject to the following restrictions:

(1) The representative's entry does not violate safety or security regulations.

(2) The representative's entry, presence, or activities will not interfere with base operations or work progress.

(3) The distribution of union literature and contact with individual contractor employees is outside the contractor's work area and during the contractor employee's nonworking hours.

(4) Such activities do not disrupt the contractor's work or activities.

(b) Union certification or decertification elections may be held on Air Force installations under the supervision of the National Labor Relations Board (NLRB). Commanders must provide a suitable place for such elections upon request of the NLRB and notify the Industrial Labor Relations Advisor of the request and actions taken.

PART 802—AIR FORCE TECHNICAL ORDER SYSTEM

Sec.

802.0 Purpose.

Subpart A—General Provisions

802.1 Applicability of TO system.
802.2 Air Force policy.
802.3 Terms explained.
802.4 Recommending improvements.

Subpart B—Explanation of TO System

802.5 General information.
802.6 Types of TOs.
802.7 Procuring material for TOs.
802.8 TOs for training.
802.9 Specifications and standards.
802.10 Joint procurement and use of other departmental publications.
802.11 Use of commercial instructions.
802.12 Budgeting and funding for TOs.
802.13 Revisions, changes, and supplements.
802.14 Security classification.
802.15 Distribution of TOs.
802.16 Technical Manual cost information.

Subpart C—TO System Council

802.17 Composition and purpose of the council.
802.18 Method of Operation.

Subpart D—HQ USAF and Command Responsibilities

802.19 HQ US Air Force.
802.20 HQ Air Force Systems Command.
802.21 HQ Air Force Logistics Command.
802.22 HQ Air Training Command.
802.23 HQ Air Force Communications Service.
802.24 HQ Air Force Test and Evaluation Center.
802.25 Major Commands and Separate Operating Agencies.
802.26 Charter for the USAF Technical Order System Council.
802.27 Specifications and standards application record.

AUTHORITY: 10 U.S.C. 8012.

SOURCE: 44 FR 55563, Sept. 27, 1979, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation 8-2, June 6, 1979.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 802.0 Purpose.

This part establishes and explains the Air Force Technical Order (TO) System, describes the devices and data to be included in a TO, and assigns basic responsibilities. It implements DOD Instruction 4151.9, January 7, 1975. It applies to all Air Force activities procuring, developing, managing, or using publications in the TO system.

Subpart A—General Provisions

§ 802.1 Applicability of TO system.

The Air Force TO system is the only official medium for disseminating technical information, instructions, and safety procedures for the operation, installation, maintenance, and

production or retrofit modification of Air Force equipment and materials. The following are excluded from the TO system:

(a) Contractor-operated experimental equipment, designed specifically for research purposes.

(b) The operation and maintenance of real property (RP) or real property installed equipment (RPIE), as defined in AFM 93-1 and AFR 400-41. However, all Air Force personnel must comply with TOs applicable to centrally procured and managed equipment, and those issued for equipment or systems interfacing with AFM 66-1 and AFR 66-5 (for example, TO 37-1-1 for fuel dispensing systems).

(c) The Air Force stocklist publications system, specified in AFR 72-8.

(d) Subjects more suitable for coverage in standard publications, as identified in AFR 5-1.

(e) Development program manuals (see § 802.3(c)).

(f) Computer programs and documentation managed according to AFR 800-14 and the 300-series regulations. However, computer program operator's manuals designated in the applicable Computer Resources Integrated Support Plan (CRISP) for Air Force Logistics Command (AFLC) management, are managed in the TO system.

(g) Equipment to be maintained by the manufacturer over its life cycle.

(h) Nonstandard cryptologic equipment operated, maintained, and managed by HQ US Air Force Security Service (USAFSS).

(i) Other forms of technical data specifically excluded by authority of HQ USAF.

§ 802.2 Air Force policy.

All Air Force systems and equipment except those excluded by § 802.1, will be operated and maintained according to the procedures described in TOs. For conditions under which TO compliance may be waived, see TO 00-5-1.

(a) Specific TOs, including Job Guide Manuals, that prescribe procedures for a repair or servicing action will be available at the job site; however, general-type TOs need not be at the job site. The TOs will be reviewed for familiarization with latest procedures, adjustment tolerances, and so forth, and will then be referred to, as required, to ensure the accomplishment of the task, according to the TO. Appropriate 11N Series TOs must be referred to during the maintenance of nuclear weapons. Specific TOs will take precedence over general-type TOs. Major commands may, at the LGM (or equivalent) level, provide further definition of a job site for specific situations, or may delegate this authority to the unit DCS for maintenance (or equivalent). In defining the job site, the TOs must be readily available to personnel accomplishing work. For example, TOs in the maintenance office or library cannot be considered as available on the flight line or missile job site.

(b) TOs, or portions of TOs, published as checklists or inspection workcards must be referred to during the operation and maintenance of systems or equipment. Items on workcards will be referred to as the step is accomplished, and items on checklists will be performed in the prescribed sequence. AFR 60-9 establishes policy for exceptions to this rule, in the use of flight manual (−1) checklists during aircraft emergency operations. Further, in the case of munitions loading checklists (−16 and −33) several nondependent tasks, such as aircraft preparation and munitions preparation, may be performed simultaneously, as set forth in TO 00-5-1.

(c) The management of the TO system includes exploring and adopting promising new techniques and technology for technical data format and presentation; determining TO requirements, material content, and distribution procedures; printing and funding.

(1) Approval actions will be taken by technically qualified personnel at the highest level, consistent with good management.

(2) Major command (MAJCOM) and separate operating agency (SOA) headquarters will ensure that subordinate activities comply with TOs 00-5-1, 00-5-2, and 00-5-15.

(3) Annual inspections will be conducted to ensure the effective and economical operation of the TO system.

(4) Requirements for TOs and associated data are placed on contract according to AFR 310-1.

(5) Using commands will not supplement TOs, except as specifically authorized by TO 00-5-1.

(6) TOs and associated data will be printed according to AFR 6-1.

§ 802.3 Terms explained.

The following terms are explained for use in the TO system.

(a) Commercial Publications. Commerical publications contain technical information on the assembly, installation, operation, servicing, disassembly, overhaul, reassembly, and parts identification. These publications are manuals, booklets, or like data that are furnished by manufacturers to purchasers of their products.

(b) Contractor Data. Data relating to equipment designed specifically for the Air Force. It differs from commerical-type data, in that equipment and data are not available nor used on the commercial market. Contractor data usually consists of documents, pamphlets, or instructions, and contains technical information. This data may consist of, but is not limited to, specifications, schematics, wiring diagrams, drawings, checklists, and other data.

(c) Development Program Manuals (DPMs). Organized groupings of procedural support data by system, subsystem, or end item. DPMs are used by contractors, HQ Air Training Command, or Air Force test personnel during such programs as research and development prototype evaluation, and full scale development programs. DPMs provide information on assembly, installation, operation, maintenance, and procedures for explosive ordnance disposal and rendering the ordnance safe.

(d) Formal Technical Orders. Military specification TOs that have been sufficiently verified to make them usable for operation and maintenance. They may be fully verified, or when used under the two-step verification concept, they may be partially verified with only the safety and essential verifications accomplished. Until they are fully verified, they shall contain a verification status page, identifying those functions that have not been verified.

(e) Format Requirements. Configuration and text layout of TOs as prescribed in TO military specifications.

(f) Integrated Loading Manuals and Checklists. Manuals and checklists covering munition-loading configurations, consisting of two or more different types without regard to whether the munitions are nuclear or nonnuclear.

(g) Partially Verified Technical Orders. Formal military specification TOs on which all safety and essential verifications have been completed and that are acceptable for use in the operational environment. They are marked "Partially Verified" on the cover page and will include a verification status page, to identify unverified procedures.

(h) Preliminary Technical Orders. TOs reproduced in limited quantities, for use to test and verify maintenance and operation procedures, and for initial training purposes. They may be in any form, including manufacturers' in-house manuals, repair or test data, and so forth.

(i) Technical Orders. Publications described in this part and TO 00-5-1, which are distributed according TO 00-5-2. TOs prescribe procedures for operating and maintaining Air Force systems/equipment. § 802.6 explains the types of TOs authorized.)

(j) Technical Order Management Agency (TOMA). The Air Force Systems Command (AFSC) or AFLC activity responsible for ensuring, during the acquisition period, that TOs for a specific system, item of equipment, or modification are prepared and delivered according to contractual requirements.

(k) TO Publication Plan. A contractor-prepared plan according to the terms of the contract and data item description outlining the general procedures, terms, and conditions governing the planning, selection, preparation, validation, verification, and delivery of TOs. It will identify requirements for training, maintenance, and operational support of the system or equipment being procured. The TO Publication Plan is managed by the procuring TOMA, and includes both contractor and organic planning. While generally not included in TO

system, RPIE manuals may be included in the TO plan for scheduling and control purposes (see § 802.1(b)).

(l) TO Supplement. Subsidiary TOs issued to update or complement the information in basic TOs. The criteria for application of supplements are defined in TO 00-5-1.

(m) Technical Content. The statement of technical requirement or instruction contained in TOs.

(n) Training Support Data. Data used when referring collectively to contractor-prepared drawings, in-house documents, commercial manuals, procedural support data, development program manuals, or preliminary TOs that are to be obtained for HQ Air Training Command (ATC) training purposes.

(o) Two Step Verification. A concept used when verification cannot be completed in time to provide fully verified TOs with first delivered operational systems/or equipment. Preliminary TOs are used to accomplish safety and essential verifications. Then, formal military specification TOs are prepared with the cover page marked "Partially Verified," and a verification status page is used to identify unverified procedures. A verification organization is named by each affected operating command, with System Manager concurrence, to complete nonsafety and nonessential verifications during a period not to exceed 2 years. Management and distribution are according to TO 00-5-1 and 2, respectively, with the contractor responsible for correction of errors and deficiencies under warranty provisions.

(p) Validation. The process by which the contractor tests maintenance and operating procedures in the proposed TOs, for technical accuracy, adequacy, completeness, and compatibility with the requirement of the applicable military specifications. Validation is conducted at the contractor's facility or at the operational site, and intails the actual performance of operating and maintenance procedures. It includes configuration, inspection, circuit analysis, trouble shooting, checkout, calibration, alignment, fault isolation, removal, repair and replacement instructions, associated checklists, and computation of reading grade levels (RGL) according to MIL-M-38784 in conformance with RGLs specified by the procuring activity.

(q) Verification. The process (by which TOs are tested and proven by Air Force personnel under Air Force jurisdiction) to be clear, logical, and adequate for operating and maintain ing associated equipment and for certifying that TOs are compatible with the pertinent hardware, tools, and support equipment. Verification consists of the actual performance of procedures by Air Force using command and testing personnel, in the operational environment, utilizing applicable maintenance instructions and checklist. Normally, initial technical orders are verified during Development Test and Evaluation (DT&E); however, verification may continue into Operational Test and Evaluation (OT&E) if necessary.

(r) Reading Grade Level (RGL). The level of reading commensurate with the reading capability of the target audience.

§ 802.4 Recommending improvements.

(a) The Air Force continually strives to improve format, presentation, and display techniques for use in the TO system. Duplicated efforts must be avoided in developing and preparing military specifications governing the format and technical content of TOs; developing procedures for joint usage of common data among the military departments (AFR 66-19); and developing and service-testing new techniques for data preparation and dissemination.

(b) All recommendations for improvements in the existing TO system, including proposals for new types of TOs or improvements in existing types, must be submitted by letter or message to HQ AFLC/LOLDT, Wright-Patterson AFB OH 45433, for review, comment, and submission to HQ USAF. When new techniques or new concepts requiring research and development (R&D) are identified, HQ AFLC must submit a Statement of Operational Need (SON) to HQ USAF for approval, according to AFR 57-1.

(c) Recommendations for specific TO improvements, corrections of

errors, or omissions of a technical nature that prevent adequate performance of functions required for mission accomplishment, are reported according to TO 00-5-1, section VI.

(d) AFSC laboratories and program offices identifying requirements for new techniques or concepts must submit a study proposal with justification to HQ USAF/LEYE, for coordination and approval.

Subpart B—Explanation of TO System

§ 802.5 General information.

(a) Air Force instructions issued through the TO system are termed TOs. Each TO issued is identified by an assigned TO number. The detailed explanation of the TO system and its operation are covered by TOs 00-5-1, 00-5-2 and 00-5-15.

(b) A TO constitutes a military order, and is issued in the name of the Chief of Staff, USAF, and by order of the Secretary of the Air Force. Compliance with Air Force technical orders is mandatory. Noncompliance may result in court-martial or nonjudicial punishment under the Uniform Code of Military Justice, or administrative action according to AF regulations.

(c) Planning for TOs to support a system and associated equipment must begin during the earliest planning phases. Normally, this is during the conceptual and validation phases when technical publications are identified in gross design requirements. This is in the form of a TO publication plan. Technical publication coverage must agree with all other elements of the system such as maintenance concept, equipment, facilities, and personnel. To ensure comprehensive response to proposals, prospective contractors must be furnished as much detail as possible on these requirements. Many TO requirements are not defined until after the hardware is selected and the maintenance concept is analyzed. The bulk of the TOs required for a system fall into this category, and it is during this period that final requirements are defined. TO requirements are established by HQ AFLC through the designated Air Logistics Center (ALC), in coordination with the program office, HQ ATC and the using commands or activities, and are in consonance with established Air Force maintenance and logistics support concepts and plans.

(d) Data acquired to support R&D on a new system, which is or could be applicable to the TO system, must be procured in a format that is readily expanded for publication, according to a military specification. This simplifies publication efforts, if TOs eventually require preparation according to military specification formats. When TOs are required, in addition to commercial data and engineering data for support of R&D programs, these manuals are developed to be equivalent to preliminary TOs. TO data must be delivered in the format prescribed by contractual and planning documents, before or concurrently with the delivery of equipment. Corrected preliminary TOs may be provided instead of formal TOs, according to § 802.7(h). All TO data procured must be according to military specifications or reviewed according to this part, to ensure that they provide sufficient detail to permit system support in the operational environment, through either the use of Air Force personnel or competitive contractor support.

(e) Policy for the sale and release of TOs is as follows:

(1) The Air Force must maintain a system for providing TOs to foreign governments who have purchased the system or equipment through the USAF or other US military departments. Controls must be established, to ensure that individual TOs are releasable to the requesting activity, that sanitization has been accomplished when necessary, and fees charged according to AFRs 400-3, 5-16, 12-32 (Part 813 of this chapter) and interim TO price guidance.

(2) Other US government agencies must be provided TOs according to the provisions of AFR 66-19.

(3) Contractors and prospective contractors must be provided required TOs, necessary to accomplish an Air Force contract or to bid on an Air Force contract.

(4) TOs for specific systems and equipment in the USAF inventory

must not be sold or released to the public. These TOs are an exploitable resource and due to high development costs are valuable Air Force property. As such, they are not to be considered "records," and are excluded from the provisions of the Freedom of Information Act (see Part 806 of this chapter).

(5) The Air Force sells to the public: Methods and Procedures TOs, General TOs (such as welding or painting practices), and specific equipment TOs for those systems and equipments that are no longer in the USAF or Security Assistance (SA) Program countries' inventory. Fees must be charged according to Part 813 of this chapter. (These TOs are normally retained for a period of six years after the equipment phases out of USAF and SA program countries' inventories.)

(f) The assignment of a new series designator to a model of a system or equipment indicates a significant change in configuration. When this occurs, a separate set of basic or supplemental manuals must be procured. This refers to the basic TOs for the system or equipment (for example, the Flight/Operation Manual, the Organizational Maintenance Manuals, the Structural Repair Manual, Illustrated Parts Breakdown and Inspection Requirements Manuals, or Workcards). Even though these publications may repeat information contained in the manuals for the previous series, presenting the information in separate or supplemental manuals makes it easier to understand and use, and simplifies the control of classified or restricted information. It also facilitates the inclusion of the changes and explanations, required as a result of numerous retrofit changes to the system and installed equipment.

(g) The narrative material of all TOs must be written at a reading grade level (RGL) commensurate with the capability of the target audience. The RGL applicable to each Air Force Specialty Code (AFSC) is identified in MIL-STD-1752 (USAF). Procuring activities must determine and notify contractors in advance of the RGL applicable to each manual. MIL-M-38784 prescribes the methodology for determining and validating the readability of TO narrative material. If the Overall Grade Level (OGL) is exceeded, the manuscript must be rewritten as required, to meet the RGL specified for the TO.

§ 802.6 Types of TOs.

Types of TOs authorized for issue are:

(a) Technical Manual (TM). A TM contains instructions designed to meet the needs of personnel engaged or being trained in the operation, maintenance, service, overhaul, installation, and inspection of equipment and material. The TM may deal with specific aircraft, missiles, communications, electronics, and meteorological (CEM) systems and items of equipment, or may be a "General TO" dealing with a subject area, such as welding or painting procedures, and so forth.

(b) Methods and Procedures Technical Order (MPTO). An MPTO is a TM that establishes policies and provides information and instructions on maintenance management or administration, configuration management, and so forth. Examples are all 00-5 series, most 00-20 series, 00-25 series, 00-35 series, and D-series publications.

(c) Time Compliance Technical Order (TCTO). A TCTO sets forth instructions for accomplishing a modification to equipment, performing or initiating special "one time" inspections, imposing temporary restrictions on aircraft flight, missile launch or usage of airborne, ground communications-electronics equipment, and support equipment. Policy and procedures for management of the TCTO system are in TO 00-5-15.

(d) Index (Type) TO. An index TO shows the status of all TOs, and provides personnel with a means of selecting needed publications. Examples are "Numerical Index and Requirement Table (NI&RT)," and "List of Applicable Publications (LOAPS)."

(e) Abbreviated TO. This is primarily a work-simplification device such as a checklist, inspection workcard, lubrication chart, or sequence chart.

(f) Preliminary TO. These TOs are prepared in a limited quantity to test and verify the procedures contained therein, against first text or early production models of the equipment for

which procured. These TOs may be used for training purposes; however, they are not used for operation or maintenance by operating commands, except as set forth in § 802.7(h).

(g) Joint Nuclear Weapons Publications (JNWPs). These technical publications, which carry an Air Force TO 11N, 60N, or 60NR designator and also bear other Service, Defense Nuclear Agency (DNA), or Department of Energy (DOE) designators, are published under the provisions of a Memorandum of Understanding between the DOE and the Department of Defense. JNWPs are designed to preclude the necessity for issuance of separate Service; DNA, and DOE manuals on the same subject, which relate to nuclear ordnance and ancillary equipment in areas such as operation, maintenance, Explosive Ordnance Disposal (EOD), supply, transportation, safety, and stockpile accounting. The JNWPs system is managed by Field Command Defense Nuclear Agency for the Department of Defense in coordination with the DOE. The HQ AFLC Albuquerque office performs the function of Air Force executive agent for JNWPs, as directed by a Department of the Air Force letter, and must staff, coordinate, and approve these publications for the Air Force.

§ 802.7 Procuring material for TOs.

Material for preparing TOs to support a new system is procured on a time-phased schedule. This schedule is formally imposed on contractors to meet the requirements for acquisition, review, validation, verification, and delivery to the operating unit, concurrent with the delivery of the hardware.

(a) While the TO is in preparation, the Air Force must conduct in-process reviews to furnish detailed guidance to the contractor and to evaluate his or her progress and understanding of contractural requirements.

(b) Preliminary TOs may be produced to meet special training requirements, only when it is in the best interest of the Air Force from the standpoint of economy and timely development of a personnel system. Preliminary and formal TOs are developed and delivered, consistent with the development testing program and operational need dates. To permit printing and distribution before or concurrently with delivery of the equipment, reproducible copies or negatives of formal TOs must be delivered not later than 60 days before the equipment is delivered.

(c) Government inspection and selective prepublication technical reviews are completed before TOs are delivered, to ensure conformance with format, style, and other specification requirements and to review the technical content.

(d) Preliminary TOs must be verified by the pertinent government agencies, to determine that the manuals have been prepared according to applicable military specifications, that the content is technically accurate, and that they contain adequate instructions for accomplishing the operation or maintenance function. Verification may take place during DT&E or OT&E testing, at a point when the system or equipment is comparable to, or similar to, the production article. With approval of the procuring agency and using command, verification may be accomplished, concurrent with validation; but it must take place before the preparation and acceptance of formal TOs or reproducible materials used to print formal TOs.

(e) Government verification of TOs must be completed in time to permit necessary correction, publication, and delivery of final, formal TOs to the operating unit, before, or concurrent with, delivery of equipment to the using command.

(f) When verification is not completed in time to ensure concurrent delivery of final TOs with the equipment, a two-step verification process must be used. Safety and essential verification of essential day-to-day operations must be completed during the first phase, using preliminary TOs. Formal military specification TOs, marked "Partially Verified" on the front page, must be used for operation and maintenance during the second phase. These partially verified TOs must have a verification status page, which states that the safety and essential verification has been completed, and

lists all procedures that have not been verified.

(g) A verification plan must be developed by the TOMA, with ALFC, using command, and Air Force Test and Evaluation Center (AFTEC) participation. It must identify the activity or activities responsible for the two-step verification, and must ensure that verification is completed at the earliest possible time. The verification time specified in the plan must not exceed two years after delivery of the first production article. That plan must describe the TOMA role in the distribution of partially verified TOs and any peculiar procedures for reporting TO deficiencies. Contracts must ensure that contractors are responsible for issuing timely corrections to all TO errors and deficiencies identified during the verification period and for updating the verification status page. TO deficiency reporting during this period must be according to TO 00-5-1, section VI. After verification is completed, the cover page is removed from the "Partially Verified" marking and the verification status page is also removed.

(h) In exceptional cases when formal military specification TOs are not printed and distributed in time to meet operational needs, the verified preliminary TOs are used pending the receipt of formal TOs, provided they support the production configuration and their use is concurred in by the MAJCOM, HQ AFLC, and HQ AFSC. In such cases, the preliminary TOs must be manually distributed and controlled by the TOMA.

(i) Post publication review of TOs is made after the operating command has possessed the system and supporting equipment long enough to permit an adequate evaluation of the instructions.

§ 802.8 TOs for training.

The primary purpose of procuring TOs is to support operation and maintenance requirements; however, TOs should be used for training purposes, to the extent possible. HQ ATC must identify the specific TOs or preliminary TOs required. Where HQ ATC special courses begin before the programmed delivery of TOs, the system program office or Air Force procuring agency must arrange to obtain copies of procedural support data, development program manuals, or preliminary TOs compatible with production configuration, to meet training requirements.

§ 802.9 Specifications and standards.

(a) Military specifications and standards related to the TO system must receive coordination of all interested activities, and approval by HQ USAF/LEYE before publication. Participation of industry in reviewing specifications and providing comments is encouraged. There are two types of specifications for TOs: those containing format requirements and those containing technical requirements. Specifications containing technical requirements should not contain format requirements, unless it is necessary to meet a specific technical requirement. Standardize format requirements, when possible. Standardization between the Services is encouraged, when maintenance concepts permit.

(b) All TO specifications are identified by Federal Supply Classification area Technical Manual Specifications and Standards (TMSS). After HQ USAF has approved a specification for Air Force application, no deviations are authorized without advance written approval of the designated preparing activity. Supplement specifications only by a formal specification amendment, as authorized in DOD Manual 4120.3-M. Do not use exhibits instead of an existing approved specification or as an expedient to defer the preparation of a new specification.

(c) If a requirement for a new type of technical manual is identified during the contract negotiation period, and the need-date is such that formal specification coordination could not be obtained, provide a draft copy of the proposed specification to HQ AFLC/LOLD for approval, for one-time application. At the time of this approval, HQ AFLC must establish a TMSS project and designate the activity to complete the specification preparation and approval requirements, for follow-on applications.

(d) The Air Force participates in the DOD Specification Standardization Program and HQ AFLC/LOLDT (Code 16) is the assigned departmental participating activity for TMSS.

§ 802.10 Joint procurement and use of other departmental publications.

TMs from other departments or agencies are used (when available) to satisfy Air Force requirements, if they meet the Air Force operational and maintenance needs. When integrated into the system, these TMs are assigned an Air Force TO number, indexed, distributed, stocked for filling requisitions, reprinted as needed, and deleted from the system in the same manner as any other TO (see AFR 66-19). The present and future configuration of the equipment is considered when determining the usability of the manuals. Under joint procurement programs, common source data are used to the maximum, to provide TOs for each Service. Source data are converted into the most usable form, to meet operational and maintenance requirements.

§ 802.11 Use of commercial instructions.

When feasible from technical usability and economical points of view, commercial-type operating instructions, parts-breakdown handbooks, and overhaul manuals may be used instead of formal (military specification) TOs, if no degradation in system operation, support, or reliability will result. Commercial publication or contractor data will be reviewed by the designated AFLC management agency and personnel from the using command activities to determine the extent of acceptability for Air Force application using specification MIL-M-7298C. Data determined as being acceptable for utilization, instead of TOs prepared to military specifications, will be identified by a TO number and will be controlled and distributed according to TO 00-5-1 and TO 00-5-2. All TO data procured must be in sufficient detail to permit system support in the operational environment, through either the use of Air Force personnel or competitive contractor support. Operational requirements and usability by maintenance personnel must not be sacrificed to use commercial instructions. MIL-M-7289C will not be used to order the preparation of technical manuals for Air Force use. When commercial manuals are used in support of a system, an overall integrating manual should be considered, to ensure the proper interface of individual units. Commercial instructions that provide adequate technical coverage will be used, where standard commercial types of support equipment are utilized.

§ 802.12 Budgeting and funding for TOs.

TO materials encompass writing, editing, preparing reproducible copy, and printing. The cost of acquiring TO material is charged to the applicable budget program or activity, according to the following criteria:

(a) Initial Procurement. When HQ AFSC has program management responsibility, it budgets and funds for all initial TO requirements and changes, until Program Management Responsibility Transfer (PMRT) occurs. AFLC budgets and funds for initial TO requirements for equipment procured by AFLC, and on a reimbursable basis, procurements made for Military Assistance Program (MAP), Foreign Military Sales (FMS), and other agencies.

(b) Items in Service. (Out-of-production weapon support systems and equipment items for which HQ AFSC and HQ AFLC PMRT has been accomplished.) After the completion of the acquisition phase, the cost of preparing a master reproducible copy for revisions of existing TOs—except for changes attributable to modifications or replenishment spares—is financed with Operation and Maintenance (O&M) funds. The printing of multiple copies of such revised TOs is also charged to O&M funds.

(c) Production and Retrofit Change Program. Generally, any change to a weapon system or equipment causes changes in operational and maintenance procedures which, in turn, require changes to TOs. These TO requirements must be identified as a part of the production or retrofit change and funding must be from the procurement appropriation that funded the change requirement.

(d) Replenishment Spares. If replenishment spares procurement involves accepting a substitute item—from either a different manufacturer of the item or as the result of using new specifications—new TOs or the revision of existing TOs may be required. In such cases, both the cost of reproducible copy and printing are chargeable to the same funds used to procure the spare item to which the TO applies.

(e) Commercial Manuals. The initial procurement of commercial manuals is included in the equipment or item cost. If the procurement of commercial manuals becomes necessary after the item procurement contract is closed, the cost is chargeable to O&M funds.

(f) Research and Development Projects. Generally, the requirements for TMs pertinent to R&D is minimized. Quantities are limited to meet specific purposes, such as testing validation and engineering. Applicable costs are charged to the same account that covers a related effort, pertinent to the approved programs. The procuring activity may refine and further develop preliminary data to military specification, for use by operating commands.

§ 802.13 Revisions, changes, and supplements.

TOs may be completely revised, changed, or supplemented. The publication of changes, revisions, and supplements is restricted to meeting criteria set forth in TO 00-5-1. Contracts must not provide for the automatic revision, change, or supplement of TOs.

§ 802.14 Security classification.

TOs may contain classified information up to and including Top Secret-Restricted Data (see AFRs 205-1 (Part 850 of this chapter) and 205-49). The classification of each paragraph and page containing classified information must be based on its contents and indicated in the prescribed manner. The title pages are marked to show the highest security classification of material contained in the TO. Classified TOs are reviewed by the issuing agency once each 12 months, and when they are changed, revised, or supplemented. The purpose of this review is to downgrade as much of the content as possible, consistent with security.

§ 802.15 Distribution of TOs.

The distribution of TOs must be controlled according to TO 00-5-2. To reduce reproduction and shipping costs, only units having a specific requirement for the information may requisition TOs.

§ 802.16 Technical Manual cost information.

The Air Force maintains a system to determine or estimate the cost of TOs. HQ AFLC and HQ AFSC must gather the cost information in sufficient detail to ensure management control and to permit more precise negotiation of TO costs, to effect reductions in the cost of acquisition, distribution, and revision. TO personnel use this data to identify areas requiring intensified management actions and application of new concepts. The data are made available to HQ USAF and other DOD agencies, upon request. When directed, the OT&E management command or agency use this data to assess the operating and support cost of TOs. Data must be collected by application of the proper Data Item Description (DID) to the Contract Data Requirements List (CDRL). The Office of Management and Budget approval number 21-R235 applies to the data required of contractors.

Subpart C—TO System Council

§ 802.17 Composition and purpose of the council.

The TO System Council, composed of knowledgeable personnel and chaired by HQ AFLC, serves as an advisory panel to HQ USAF/LEYE, in the management and improvement of the TO system.

§ 802.18 Method of Operation.

The organization, frequency of meetings, and operation of the council is described in the TO System Council Charter (see § 802.26).

99-112 O—82—3

Subpart D—HQ USAF and Command Responsibilities

§ 802.19 HQ US Air Force.

(a) HQ USAF/LEYE will:

(1) Manage and approve changes to the TO system.

(2) Issue all Air Force policy for the management of the TO system and provide the final authority for that policy.

(3) Approve all TO specifications and amendments thereto.

(4) Approve all service tests and studies of new techniques for use in the TO system.

(5) Approve all revisions and changes to TOs 00-5-1, 00-5-2, 00-5-15, 00-20-8, 00-20-14, and 00-25-108.

(6) Review and approve the TO System Council Charter.

(7) Review AFR 60-9, to ensure consistency with the TO system, and coordinate TO policy changes affecting the Aircrew Flight Manuals Program with the manager of the program.

(b) HQ USAF/LEYPM will approve all revisions and changes to TOs 00-20-1, 00-20-2, 00-20-2-2, 00-20-2-4, 00-20-2-5, 00-20-2-6, 00-20-2-7, 00-20-2-8, 00-20-2-10, 00-20-2-13, 00-20-3, 00-20-4, 00-20-5, 00-20-5-1, 00-20-6, 00-20-7, 00-20-9, 00-20-10, 00-25-4, 00-25-107, 00-25-172, 00-25-189, 00-25-240, and 00-35D-54.

(c) HQ USAF/LEYF will approve all revisions and changes to TOs 00-25-172 and 00-25-212.

(d) HQ USAF/LETN will approve all revisions and changes to TOs 00-20B-5, 00-20D-1, 00-25-246, and 00-25-249.

§ 802.20 HQ Air Force Systems Command.

HQ AFSC will:

(a) Budget and fund for TOs, according to § 802.12 and maintain cost information, according to § 802.16.

(b) Prepare specifications for:

(1) Aircraft flight manuals.

(2) Missile operation and countdown manuals and related checklists.

(3) Cargo loading.

(4) Basic weight checklist and loading data.

(5) Nuclear munitions loading, delivery, and transport manuals and checklists.

(6) Nonnuclear munitions delivery manuals and checklists.

(7) Air refueling manuals.

(8) Integrated loading manuals and checklists, when nuclear munitions are involved.

NOTE: For specifications listed in (1) through (8) above, HQ AFSC will prepare the draft of part 3 (Requirements) of the specification, including all known technical requirements and ensure technical content accuracy. HQ AFSC will forward the draft part 3 to HQ AFLC, Code 16, for review and format completion of parts 1, 2, 4, 5 and 6 according to DOD Manual 4120.3-M. HQ AFLC will coordinate as necessary with using commands, industry, and HQ AFSC; resolve all differences; and forward the coordinated specifications and copies of HQ AFSC comments to HQ USAF/LEYE for approval. HQ AFLC will send all technical differences, received during coordination, to HQ AFSC for resolution.

(c) Procure TOs according to Air Force approved specifications designated by HQ AFLC, and will be responsible for technical accuracy of all TOs during the production phase. Contracts will be written to ensure that correction of TO deficiencies and errors is a contractor responsibility.

(d) Comply with AFR 66-19, when Joint Service TOs or systems are procured.

(e) Ensure, through collaboration with AFLC Program managers that invoked specifications, Standard and Data Item Descriptions are selectively tailored to apply only those requirements that are necessary for imposing the minimum essential needs for the particular application. Further, according to DOD Directive 4120.212, Specifications and Standards Application, will ensure that the manner and degree of tailoring accomplished during contract performance, is documented and fed back to the respective specification preparing activity, as material to be considered during the next document improvement process. The feedback material will be formatted according to § 802.27.

(f) Monitor the validation and supervise the verification of TOs that are in acquisition and under technical management of HQ AFSC, according to TO 00-5-1. Also, will accomplish or administer the contractual acceptance inspection of TOs acquired for the Air Force.

(g) Make special arrangements to provide HQ ATC with preliminary TOs, training support data, and other materials specified in § 802.8 for special training. This will be accomplished by contractual arrangements, to procure only essential copies of the operation and maintance TMs and training support data to satisfy HQ ATC requirements. Revisions to this material, as a result of normal revision actions during the acquisition process, will be incorporated to provide the latest information available, at the time the data is required for training classes. The cost of procuring training support data, required for classes beginning before these manuals normally are available, will be weighted against the number and type of students to be trained and the urgency for the early training.

(h) Furnish the AFLC system manager (SM) or item manager (IM), at earliest possible date, with analysis data and background information required by him or her to determine Air Force TO requirements.

(i) Provide for the publication of all TOs, under HQ AFSC management, during the production phase, according to Air Force current publication and printing policy (AFRs 5-1, 6-1, 9-5, and this part).

(j) Ensure that all TOs, under HQ AFSC management, concurrently reflect all changes generated by production changes.

(k) Ensure that development program procedural support data, and other data pertinent to TO development, are managed as an intregral part of the total weapon system or equipment acquisition. The development of TOs and supporting development data should be accomplished and phased relative to design stability; the support of other acquisition efforts (such as test, integration, and so forth), with objective of minimizing duplication and TO revision cost.

(l) Schedule delivery and provide controls, to ensure that TOs are available at using activities before or concurrently with the delivery of applicable systems and equipment.

(m) Include in PMRT agreements, the mutually agreeable and positive dates on which the TOMA responsibility for TOs will be passed to HQ AFLC for each aerospace vehicle or system.

(n) Develop and maintain currency of TO inputs to all system program documentation.

(o) Ensure command-wide compliance with TOs 00-5-1, 00-5-2, and 00-5-15.

(p) Coordinate with the proper AFLC activity to ensure compatibility of TOs, tapes, and computer programs used in the maintenance and operation of systems or equipment.

(q) Provide membership to the Interservice Group on the Exchange of TM Technology (AFR 66-19) and to the TO System Council.

(r) Provide timely replies to major command AFTO Forms 22, Technical Order System Publication Improvement Report and Reply, when HQ AFSC is the TOMA. Provide AFTO Forms 22 action status to HQ AFLC for the TO Improvement System Report (TO 00-5-1), except during the two-step verification period. During the two-step verification, provide control information to AFLC GO-22 system, to maintain TO distribution control by the System Program Office.

(s) Provide OT&E management agency and commands with TOs, to be used during OT&E.

(t) Establish controls to ensure that individual TOs are releasable to foreign governments; international organizations, eligible to participate in the Air Force Security Assistance program; and to Air Force contractors.

§ 802.21 HQ Air Force Logistics Command.

HQ AFLC will:

(a) Prepare all specifications, in coordination with AFSC and interested MAJCOMs and SOAs (including general format), for all TOs, except those identified in § 802.20(c). All revisions or changes to technical order specifications will be coordinated with HQ AFSC, using commands, and industrial associations accorded an opportunity to comment on the specifications before they are forwarded to HQ USAF/LEYE for approval. A copy of HQ AFSC comments will also be forwarded with the request for approval.

(b) Act as the Participating Department Activity in the Technical Manual Specifications and Standards (TMSS) Program for the Air Force. This responsibility will include management of the Air Force portion of the DOD-wide TMSS program.

(c) Review deviations and waivers to military specifications, for which HQ AFLC is the preparing activity. Grant approval of deviations or waivers and assist in solving specification problems, as appropriate.

(d) Develop and maintain current 71-531-series Air Force Acquisition Documents (AFAD) for use in contractual procurement of TOs and obtain HQ AFSC coordination on these documents and changes or revisions thereto.

(e) Develop, coordinate, and maintain currency of TO inputs to Section 8 (Logistics) of all System Program Documentation and participate in preparation of Request For Procurement (RFP) and Statement of Work (SOW).

(f) Determine and furnish HQ AFSC with the coordinated Air Force requirements for TOs pertaining to operational systems, equipment, and support equipment (SE). (This includes identification of TO format and content specifications to be used.)

(g) Participate in conferences and furnish recommendations to HQ AFSC regarding the planning for, development of, and acceptance of TOs.

(h) Budget, fund, and procure all TO material and printing for systems, equipment items, and SE that are not undergoing acquisition or that have been formally transferred to HQ AFLC. Coordinate PMRT agreements with HQ AFSC, and determine the exact date of the assumption of TOMA responsibility for each aerospace vehicle, system, or associated equipment.

(i) Comply with AFR 66-19 when Joint Service TOs or systems are procured.

(j) Establish and operate the Air Force system for TO numbering, indexing, storing, requisitioning and distribution. Indexing will be organized to permit interservice use of TMs. Work with other services to permit crossfeed of TOs.

(k) Participate in DOD directed programs to develop joint procedures for the military departments, ensuring maximum joint use of TMs. Provide a representative to cochair the Interservice Group On The Exchange of TM Technology, according to AFR 66-19.

(l) Prepare, coordinate with using commands, and publish method and procedures TOs, including a detailed explanation of the TO System (TO 00-5-1, TO 00-5-2, and TO 00-5-15), after receiving HQ USAF approval on the TOs identified in §§ 802.19(a)(5), 802.19(b), 802.19(c), and 802.19(d).

(m) Furnish necessary assistance, in coordination with HQ AFSC, for Government review and verifications of TOs.

(n) Acquire and maintain an internal capability for preparing TOs that pertain to an Air Force maintenance management system. This includes inspection requirements TCTOs, TMs, checklists, missile receipt-to-launch sequence charts, and similar instructions.

(o) Integrate into the system other Government agencies' publications that apply to equipment used by the Air Force.

(p) Control the distribution costs of TOs and maintain cost information, according to § 802.16.

(q) Receipt, store, and issue TOs, according to TO 00-5-2. (Base, Chief of Administration at the Air Logistics Centers.)

(r) Comply with the publishing and printing policies of AFRs 5-1, 6-1, 9-5, and this part.

(s) Continually review existing TOs to detect errors, deficiencies, and obsolete or nonessential material (such as TOs covering equipment phased-out of the Air Force inventory). The review should ensure that data still required for support of international logistic programs is not deleted.

(t) Operate and maintain a TO improvement reporting system.

(u) Forward to HQ USAF/LEYE, for approval, valid proposals received according to § 802.4 (a) and (b).

(v) Provide a representative to chair the TO System Council and additional membership as necessary.

(w) Determine the number of copies of TOs to be printed or procured, to

satisfy the known distribution demands.

(x) Ensure command-wide compliance with TOs 00-5-1, 00-5-2, and 00-5-15.

(y) Evaluate new methods for data presentation, storage, and retrieval. Maintain a capability to evaluate or service test new techniques recommended by either Air Force activities or Department of Defense agencies. Review contractor proposals to determine the applicability to Air Force requirements.

(z) Provide the normal TO acquisition functions, when the system or project management is assigned to HQ AFLC. This includes functions described in § 802.20(g).

(aa) Retire on issuance, a permanent record copy of each TO according to AFM 12-50.

(bb) Include procedures in TOs prepared organically by AFLC to minimize the amount of air and water pollution generated by normal base industry type operations (corrosion control, engine repair, plating, chemical waste handling, and so forth), as required by AFRs 19-1 and 19-2.

§ 802.22 HQ Air Training Command.

HQ ATC will:

(a) Provide HQ AFSC and HQ AFLC with a time-phased requirement for operation and maintenance TOs, preliminary TOs, development program manuals, procedural support data, or training support data for developing and accomplishing special training courses. Notify the appropriate ALC/SM or IM of TO requirements, when HQ AFLC is responsible for TO acquisition (for example, nonsystem TOs or equipment procurement).

(b) Assist HQ AFSC in budgeting for operation and maintenance manuals, by identifying types and quantities that must be procured early to support training requirements before these manuals normally are available. This requirement is coordinated to prevent duplication of procurement of information.

(c) Collaborate with HQ AFSC in planning for the acquisition of training data required for initial training, as indicated in § 802.8.

(d) Provide membership to the TO System Council.

(e) Provide training to support the TO system. Training will include the varied aspects of TO acquisition, system operation, TO distribution, TO requisition, organizational use, and file maintenance.

§ 802.23 HQ Air Force Communications Service.

HQ AFCS will:

(a) Prepare TMs of the following types, in support of the ground Communications-Electronics-Meteorological (CEM) program, for inclusion in the TO system:

(1) General engineering and planning.

(2) Facility, subsystem, and system installation-engineering and installation.

(3) Standard Installation Practices Technical Orders (SIPTOs).

(b) Coordinate with the proper ALC and HQ AFSC to ensure compatibility of above TOs with CEM equipment TOs and to ensure timely budgeting, printing, and distribution by the ALC.

(c) Comply with AFRs 5-1, 6-1, 9-5, and this part regarding publications, policies, joint usage publications, forms, and printing policies.

(d) Comply with all provisions of § 802.25.

(e) Provide membership to the TO System Council.

§ 802.24 HQ Air Force Test and Evaluation Center.

HQ AFTEC will:

(a) Serve as an associate member to the TO System Council for test matters.

(b) Participate in the preparation of TO verification plans, make OT&E test resources available, and participate in TO verification, when specified in the verification plans.

(c) Evaluate system TOs as a part of all AFTEC managed OT&E.

(d) Report TO deficiency recommendations, through channels as early as possible, in the acquisition cycle.

(e) Provide a summary of the TO program in the OT&E final report, when directed by the Program Management Directive (PMD).

(f) Assume the lead in the development of TO evaluation criteria and procedures for Air Force-wide OT&E application.

§ 802.25 Major Commands and Separate Operating Agencies.

These activities will:

(a) Ensure timely compliance with the policies of this part and all applicable TOs.

(b) Conduct programs to familiarize command personnel with the TO system.

(c) Ensure that command organizations establish and maintain only those TO files that are essential to the primary mission of the respective units. Establish within each command the necessary procedures to ensure a recurring review of requirements, control, and distribution of TOs.

(d) Submit recommended changes to the TO system, according to § 802.4(b).

(e) Participate in the preparation of Request For Procurement (RFP) and data calls, and assist HQ AFSC and HQ AFLC in determining the scope of technical data, to be included in specifications used for procuring TOs.

(f) Assist HQ AFLC in determining requirements for TOs.

(g) Assist in reviewing and verifying TOs for systems, equipment items, and SE, to determine adequacy and accuracy.

(h) Assist HQ AFSC and HQ AFLC in controlling and reducing costs of TOs.

(i) Provide membership to TO System Council meetings.

(j) Provide the following, when hosting a TO System Council meeting.

(1) Adequate conference facilities.

(2) Administrative support, including:

(i) Billeting arrangements.

(ii) Transportation arrangements.

(iii) Stenographic support.

(iv) Typing.

(v) Reproduction capability.

(vi) Audio-visual equipment.

(vii) Communication facilities.

§ 802.26 Charter for the USAF Technical Order System Council.

(a) TO System Council. This council is chartered as an advisory group to identify problems related to the management of the TO system and to recommend solutions to HQ USAF.

(b) Composition. The council will be composed of representatives from each MAJCOM, SOA, specified and unified command (for example: HQ USAF, AFLC, AFSC, AFCS, ADCOM, AFRES, AAC, ATC, MAC, NGB, PACAF, SAC, USAFE); and associate members.

(1) HQ AFLC will chair the council.

(2) HQ USAF will be an advisor to the council.

(3) Each primary organization will provide a principal and should also provide an alternate representative to the council, with the senior representative having authority to act for the command. Additional attendees necessary to represent the various functions of the respective commands will be at command discretion.

(4) Associate members will provide their special expertise and experience. Examples are: The Air Force Logistics Management Center (AFLMC), the Air Force Human Resources Laboratory (AFHRL) the AFLC/Air Force Acquisition Logistics Division (AFALD), the Air Force Test and Evaluation Center (AFTEC), and the Air Logistics Centers (ALCs). Associate memberships will be reevaluated at each council meeting.

(c) Frequency of Meetings. The council will normally meet twice a year. The frequency will be based on council requirements. The location of meetings will be determined by the chairperson.

(d) Method of Operation.

(1) The council will:

(i) Periodically review and evaluate the soundness of TO system management and the policy of this part, TOs 00-5-1, 00-5-2, and 00-5-15.

(ii) Identify areas requiring additional study and establish working groups to develop recommended solutions.

(iii) Evaluate improved techniques for data presentation.

(iv) Forward all recommendations for changes and improvements in the TO system, which require a policy change, to HQ USAF/LEYE for staffing.

(v) Consider user's needs to be paramount in recommending changes and improvements to the TO system.

(vi) Initiate cost trade-off studies, when recommended improvements introduce significant new costs.

(vii) Provide participation in symposia and conferences relative to the TO system, and industrial associations' technical publication meetings.

(2) Members will prepare themselves before the council meetings by reviewing past minutes, task group recommendations, and present agenda items.

(3) The chairperson will:

(i) Before the council meeting:

(*a*) Review minutes from the past meeting.

(*b*) Remain up-to-date on open study items.

(*c*) Collect and review working group inputs.

(*d*) Propose agenda items 60 days before the council meeting, for coordination with members.

(*e*) Call meetings and publish agenda at least 30 days before the council meeting.

(ii) During the meeting:

(*a*) Open each TO council meeting with a review of the minutes of the previous council meeting. If an agenda item is open due to working group action, the chairperson will call for the working group report. Pursue all recommendations to a proposed solution, identify and action agency, establish a suspense or direct further working group action.

(*b*) Ensure that all items are resolved or an action agency identified and a suspense established.

(*c*) Forward all council positions to HQ USAF/LEYE for proper action, and specify that the position was unanimous or was a majority position, with minority reports from dissenting command/organization(s) attached.

(*d*) Ensure that all open items from the previous minutes are discussed before new business is addressed.

(*e*) Present agenda items for discussion.

(*f*) Assign a recorder and summarize remarks, as required.

(*g*) When problems arise requiring more time than can properly be allotted, activate task groups as required. Task group chairperson, members, objectives, and suspenses will be assigned.

NOTE: Task groups will submit their recommendations to the council members 30 days in advance of council meetings, to permit staff coordination within the commands.

(*h*) Designate participants to symposia, conferences relating to the TO system, and industrial associations' technical publication meetings.

(*i*) Convene an executive session with the designated members to finalize the council actions, before closing the meeting. Action on council policy matters will be discussed and finalized.

(iii) After the meeting:

(*a*) Disseminate minutes to attendees and HQ USAF/LEY, within 30 days.

(*b*) Monitor action agencies and working groups to ensure suspenses are met.

§ 802.27 Specifications and standards application record.

A permanent record will be maintained as a management review tool documenting the manner and degree in which the referenced specifications and standards have been tailored. This record will:

(a) Identify the system or equipment and corresponding Solicitation/Contract Number.

(b) Identify and list separately by number and title each document that is cited in the System Specifications and Statement of Work.

(c) Provide the following information for each document:

(1) Identify where the document is referenced in the solicitation.

(2) List (as minimum by paragraph number) all requirements appearing in the document that are not applicable, and those that have been modified. For convenience, if most requirements in the document are not applicable, list only those requirements that are applicable and have been modified. If all provisions of the document are applicable, so indicate.

(3) Provide a simple, short entry for each requirement that has been excluded (for example, not applicable) or modified, limited to reasons such as the following:

(i) To accommodate state-of-the-art technology.

(ii) To accommodate industry capability and/or practice.

(iii) To accommodate the specific system or acquisition phase.

(iv) Alteration of requirement to match specific mission, application, or operation.

(4) Identify the applicable Data Item Description (DD Form 1664) and whether these have been tailored to conform to the governing document.

PART 803—DISPOSITION OF PERSONAL PROPERTY

Sec.

803.0 Purpose.

Subpart A—General Provisions

803.1 Definitions.
803.2 Responsibility of the commander.
803.3 Authority for shipping property of a deceased or missing person.

Subpart B—Property of Deceased Active Duty Military Personnel

803.10 Who is responsible for disposing of personal property.
803.11 Persons entitled to receive property.
803.12 Screening, cleaning, and repairing personal effects.
803.13 Withdrawal of personal uniform items.
803.14 Handling the mail.
803.15 Disposal of funds, commercial instruments, stocks, and bonds.
803.16 When the legal representative or next of kin is present.
803.17 When the legal representative or next of kin is known but not present.
803.18 When no legal representative or next of kin can be located.

Subpart C—Property of Deceased U.S. Civilians

803.20 Which civilians are covered.
803.21 When the legal representative or next of kin is present.
803.22 When the legal representative or next of kin is not present.

Subpart D—Property of Foreign Nationals

803.30 Property of foreign nationals training in the United States.
803.31 Property of foreign civilian employees.

Sec.

Subpart E—Property of Missing and Captured Persons

803.40 Waiting period before disposal of the property.

Subpart F—Property of Indigent Persons Who Die on Air Force Installations

803.50 Disposition of property under Air Force jurisdiction.

Subpart G—Assignment of Responsibility for Effects Offices

803.60 Establishment of an effects office.
803.61 Responsibility for disposing of effects.
803.62 Paying and collecting debts.

Subpart H—Procedures for Disposing of the Effects of Deceased Persons

803.70 Classes of effects.
803.71 Inventory of effects.
803.72 Disposal of funds.
803.73 Disposal of identification tags.
803.74 Shipping effects.

Subpart I—Procedures for Disposing of the Effects of Allied Personnel

803.80 Effects of allied dead.
803.81 Unclaimed and miscellaneous effects, and effects of other than known deceased.

AUTHORITY: 10 U.S.C. 8012.

SOURCE: 37 FR 24818, Nov. 22, 1972, unless otherwise noted.

§ 803.0 Purpose.

(a) This part explains the procedures of disposition of the personal property of certain deceased and missing Air Force military personnel and civilians when that property is under Air Force jurisdiction. It also explains the handling of personal property of foreign nationals. It assigns responsibility to the commander for safeguarding the property from pilferage, and for protecting the property from damage or loss.

(b) Part 806 of this chapter states basis policies and instructions of release to the public of Air Force records, manuals, and regulations.

Subpart A—General Provisions

§ 803.1 Definitions.

(a) *Personal property.* This term includes:

(1) Household goods and household effects.

(2) Personal effects and property or estate, except real property that is temporary, movable, and subject to personal use or ownership.

(3) Accouterments are those belongings which are worn on the person (such as jewelry, rings, watches, tie pins, and similar items).

(4) A privately owned motor vehicle. Any self-propelled wheeled motor conveyance that is primarily for use as a passenger-carrying vehicle, and similar vehicles; jeeps; motorcycles and motor scooters; pickup and panel trucks, including those which have been converted to "campers" (subject to the condition in Joint Travel Regulations (JTR) per M11002-2); small autobuses of the Volkswagen, Micro, and similar types (not to exceed nine-passenger capacity); and other passenger-carrying or multi-purpose motor vehicles designed for overland ground transportation and owned by the member, and which, even though not specifically mentioned here, may be found to qualify for shipment on the basis of the member's written certification that the vehicle was for his personal use as a passenger-carrying vehicle.

(5) House trailers and contents thereof, in lieu of the shipment of household goods.

(b) *Continental United States (CONUS).* U.S. territory, including the adjacent territorial waters located within the North American continent between Canada and Mexico.

(c) *Missing person.* One reported as missing under the Missing Persons Act, as amended (50 U.S.C. App. 1001-1016). (If there is a question as to whether a person is subject to this Act, a determination will be requested from the Staff Judge Advocate.)

§ 803.2 Responsibility of the commander.

The commander of any Air Force activity that is responsible for collecting, inventorying, storing, or forwarding any personal property of a deceased or missing person will take positive steps to insure that all personal property is safeguarded, at all times, to prevent any pilferage and to see to it that it is adequately protected against loss or damage.

§ 803.3 Authority for shipping property of a deceased or missing person.

(a) *Authority and weight limit.* Under AFM 75-4 and the JTR, personal property of a deceased or missing person will be shipped at the expense of the Government. The weight limits are as follows:

(1) *Military member.* A weight limit of 13,500 pounds net. This does not apply to privately owned motor vehicles, professional books, papers and equipment, except for Military Affiliate Radio System (MARS) equipment, which is limited to 3,000 pounds. The maximum payable by law for shipping a house trailer is 74 cents per mile.

(2) *Civilian employee.* A weight limit as outlined in JTR, volume II.

(b) *Motor vehicles.* One privately owned motor vehicle may be shipped at Government expense as personal property, if it:

(1) Was the property of the sponsor or his lawful dependent, and the ownership can be legally established;

(2) Was moved to its current location, or lawfully procured there, by the member or his lawful dependent before the date of the issuance of the official status report; and

(3) Is in good operating condition.

Subpart B—Property of Deceased Active Duty Military Personnel

§ 803.10 Who is responsible for disposing of personal property.

(a) The commander of the activity at (or nearest to) the place where the personal property is located will collect, safeguard, and immediately dispose of property that is under Air Force jurisdiction.

(1) If the legal representative or next of kin is not present to receive the property, the commander responsible for the disposing of it will appoint a summary court to dispose of it as stated here.

(2) If the property is located at two or more widely separated locations,

the commander at each location will appoint a summary court, to work with the commander of the organization to which the deceased was assigned, to dispose of the property.

(3) If appropriate, accouterments taken from remains after death will be placed in the transfer case/casket with the remains, by the mortuary officer of the shipping installation.

(b) If the property belongs to a person who dies aboard an air or water transport, the aircraft (or troop) commander will have the personal property collected, inventoried, and safeguarded, and turn it over to the commander of the Air Force activity at (or nearest to) the base or port where the remains are offloaded.

§ 803.11 Persons entitled to receive property.

(a) The following persons, listed in the order of precedence, are entitled to receive the property of a deceased military member (that is, the recipient):

(1) Surviving spouse or legal representative.

(2) Son.

(3) Daughter.

(4) Father (if he had not abandoned support of his family).

(5) Mother.

(6) Brother.

(7) Sister.

(8) Next of kin.

(9) Beneficiary named in the will of the deceased.

(b) If a dispute or question arises, or is expected to arise, over who is to be the recipient, legal assistance will be requested from a staff judge advocate in making the determination.

(c) When the recipient is a minor, the property will be forwarded in care of the surviving parent, guardian, or adoptive parent.

§ 803.12 Screening, cleaning, and repairing personal effects.

The commander who is responsible for handling personal effects must insure that the following actions are taken before delivery or shipment to the recipient.

(a) Removal and destruction of any item that:

(1) Is obnoxious or may embarrass the recipient.

(2) Obviously has no intrinsic or sentimental value. This includes partly used cakes of soap, and tubes of toothpaste or creams; newspapers; magazines; used bottles of shoe polish, ink, lotions, tonics; candy; tobacco, and lighter fluid.

(b) Using Government facilities, all bloodstained or mutilated items whose condition might distress the recipient will be cleaned (or made presentable). If an item cannot be made presentable and would be offensive to the recipient, it will be destroyed and a record kept of the item.

(c) Organizational clothing and equipment will be turned in to the responsible supply officer; this action will be recorded on the proper form and credited to the member's records for the items withdrawn.

(d) Standard Form (SF) 46, "U.S. Government Vehicle Operators Identification Card," will be withdrawn and destroyed (AFM 77-1). Department of Defense (DD) Form 2AF (green), "Armed Forces Identification Card," and DD Form 528, "Geneva Convention Identification Card," will be withdrawn and forwarded to the personnel records custodian for disposition. (See Part 809 of this subchapter.)

(e) Examination will be made of all military information or documents. Any classified material, or material that may need classification, will be submitted to the proper authority for disposition under Part 852 of Subchapter E of this chapter, or applicable security regulations.

§ 803.13 Withdrawal of personal uniform items.

Withdrawal will be made of only enough personal uniform items to provide clothing for burial.

§ 803.14 Handling the mail.

Mail received personally by the addressee before death will be treated as personal property. If there is mail that has not been delivered, it will be disposed of by the unit mail clerk as directed in AFR 182-11.

§ 803.15 Disposal of funds, commercial instruments, stocks, and bonds.

(a) If the legal representative or next of kin is present, delivery will be made of all currency, stocks, bonds, checks, and commercial papers to him except the following:

(1) *Funds belonging to the Government.* If funds are found on or with the deceased and appear to be Government funds (for example, funds that are entrusted to the agent of a finance officer), they will be turned over to the accounting and finance officer, to be held in special deposits until it can be determined which amount belongs to the Government and which to the individual.

(2) *Government checks and military payment orders.* If a U.S. Treasury check or military payment order was not delivered to the payee before his death, it will be treated as an unclaimed check and delivered to the local accounting and finance officer. The proceeds of the check will be included in the settlement of the deceased member's final pay account.

(b) If the legal representative or next of kin is not present, the summary court will dispose of currencies, commercial papers, checks, etc., as follows:

(1) *U.S. currency.* If there is less than $5, it will be included with other personal property. If there is more than $5, it will be turned in to the nearest accounting and finance officer, who will issue a U.S. Treasury check and forward it to the recipient by U.S. mail. This transaction will be recorded on AF 1122a, "Personal Property Inventory (Continuation Sheet)," including the date and number of the check.

(2) *Foreign currency.* This will be included with other personal property. It is considered souvenir money.

(3) *Bank books, stocks, bonds, or negotiable instruments.* Although these are considered personal property, they will be handled as follows:

(i) Bank deposit books, stocks, bonds, or other negotiable instruments, including traveler's checks, money orders, etc. (except checks drawn on the Treasurer of the United States or on foreign depositories and military payment orders) will be sent to the recipient by registered mail.

(ii) If a local debtor has made payable to the deceased a negotiable instrument in settlement of a debt, it may be indorsed by the summary court for collection and the proceeds disposed of the same as currency.

(4) *Military payment certificate.* This is to be converted into a U.S. Treasury check and forwarded to the recipient by U.S. mail. This transaction will be recorded on AF Form 1122a as explained in paragraph (b)(1) of this section. If the certificate totals less than $5, it will be presented to the accounting and finance officer for conversion into proper currency and included with the other personal property.

(5) *Funds belonging to the Government.* The procedures given in paragraph (a)(1) of this section will be followed.

(6) *Government checks and military payment orders.* The procedures in paragraph (a)(2) of this section will be followed.

§ 803.16 When the legal representative or next of kin is present.

(a) *Precautions.* The release of property to a relative or friend of the deceased will not be made simply because that person is present at the time or has traveled to the place of death to claim the property.

(b) *Procedure.* All property in quarters or at the decedent's duty station must be released to the legal recipient as defined in § 803.11, unless that recipient has requested, in writing (or otherwise approved), its release to another person. The following procedures will be used:

(1) Delivery of all currency, commercial papers, stocks, bonds, checks (except the funds, checks, and military payment orders that must be handled as described in § 803.15), will be made to the legal recipient.

(2) AF Form 1122, "Personal Property Inventory" (front and reverse), will be prepared in duplicate for the property that is in Air Force custody. The recipient will be required to sign the original of the form. The original copy will be filed as directed in Part 804 of this subchapter, and the second copy will be given to the recipient.

(c) *Shipping.* Arrangements will be made with the transportation officer to have the property packed and shipped at Government expense as authorized and requested by the legal representative or next of kin.

§ 803.17 When the legal representative or next of kin is known but not present.

The summary court will work closely with the transportation office in forwarding property to the recipient as quickly as possible, and no later than 4 weeks from the date of death. The shipment will not be delayed pending the sale of a motor vehicle, or the collection of outstanding debts. Instead, at the time the first shipment is made, the recipient will be informed of any actions pending and the approximate date they will be completed. The following procedures will be used:

(a) *Inventory.* An inventory will be made of the property and five copies of AF Form 1122 prepared. Distribution of these copies are explained in the following paragraphs of this section.

(b) *Preparation for shipment.* The transportation officer will assist in packing the property properly and securely for shipment to protect it against pilferage, loss, or damage.

(1) The contents of the packages will be checked against the inventory, and the total number of packages entered on AF Form 1122, and one copy of the inventory form placed inside the package. Then, the packages will be sealed.

(2) The name and address of both the consignee and the sender will be clearly marked on one side and one end of the package. If the name of the addressee cannot be shown on the package, a wirestrung shipping tag will be marked and attached securely to the container.

(c) *Shipping procedure.* The following documents will be given to the transportation officer who will ship the property:

(1) DD Form 1299, "Application for Shipment of Household Goods."

(2) Copy of orders appointing the summary court.

(3) Copy of AF Form 1122.

(4) Complete shipping instructions to enable the transportation officer to ship the property promptly and properly.

(d) *Shipping notification.* When the property is shipped, a letter and two copies of AF Form 1122 will be sent to the addressee, giving the date and method of shipment and the anticipated date of arrival at destination. This letter will also state that the property is being shipped as required by Federal law, and that the vesting of title thereto is dependent upon the laws of the State of the decedent's legal residence. A self-addressed envelope will be enclosed and the recipient will be requested to sign the original and one copy of AF Form 1122 upon receipt of the property. Both copies are to be returned to the summary court.

(e) *Financial settlement action.* At the same time the property is being prepared for shipment, the summary court will take the following actions:

(1) *Debt collection.* To the extent feasible, all local debts due the decedent will be collected.

(2) *Payment of debts.* Undisputed local creditors will be paid with any available cash belonging to the decedent and receipts for such payments obtained.

(3) *Funds.* Funds (including proceeds from the sale of property), commercial instruments, stocks, bonds, etc., will be disposed of as directed in § 803.15(b).

(4) *Cash records.* Each sale and cash transaction will be recorded on AF Form 1122a (in three copies). A certified copy of each bill of sale and each receipt of payment of a creditor will be attached to one copy of AF Form 1122a and mailed to the recipient.

(f) *Unfinished settlement action.* When the property has been shipped and the financial settlement action taken as explained here, the recipient will be advised of the settlement action that is still pending. A letter of explanation will be sent to the recipient, as follows:

(1) Describing and listing all known unsettled debts that were owed by or due to the decedent.

(2) If there are any items that cannot be shipped at Government expense, they will be described and the recipient will be asked either to arrange for their disposal or to authorize the summary court to dispose of them

through public or private sale. (For example, these might include items that are prohibited by U.S. customs laws from entry into the United States; motor vehicles that do not conform to the explanation given in § 803.1(a)(3); airplanes, boats, or outboard motors; or more than one vehicle allowed by this part.)

(g) *Closing a case and filing the records.* The following procedures will be used, depending on whether the summary court has been able to obtain a receipt for the property:

(1) *With a receipt.* After the recipient has signed and returned AF Forms 1122, the original signed copy and AF Form 1122a are given, with a detailed account of all transactions of the summary court, to the commander for approval and signature.

(i) The original signed form, together with the account of the transactions of the summary court, will be placed in the file established according to Part 804 of this subchapter.

(ii) The duplicate will become part of the records of the summary court.

(2) *Without a receipt.* After reasonable but unsuccessful efforts to obtain signed copies of AF Form 1122, the case may be closed. A statement of all action taken to obtain the receipts will be prepared and given to the commander for approval and signature.

(i) The original signed form, with the account of the transactions of the summary court, will be placed in the file established according to Part 804 of this subchapter.

(ii) The duplicate will become part of the records of the summary court.

(3) The account of the summary court transactions will be a detailed chronological report of each action taken, and supported by documentary evidence, as applicable.

§ 803.18 When no legal representative or next of kin can be located.

The summary court will take the following action.

(a) The property will be inventoried and three copies of AF Form 1122 prepared.

(b) After collection from local debtors and payment of undisputed local creditors of the deceased are made, all property except the following will be sold: Articles having value chiefly as keepsakes (as defined in 10 U.S.C. 9712(e)), stocks, bonds, evidence of bank accounts, or other forms of purely commercial paper.

(1) Property will be sold only when the summary court, after diligent effort, has not been able to discover the existence or address of any of the persons entitled to receive the property and has stated this formally in writing.

(2) Property will not be sold for at least 30 days after the death of the person to whom it belongs.

(c) Any remaining undisputed local creditors of the deceased will be paid with funds derived from sale of the property.

(d) All sales and cash transactions will be recorded on AF Form 1122a in three copies.

(e) All cash and checks remaining after the settlement of debts will be forwarded (with the original and two copies of AF Form 1122a) to the local accounting and finance officer, for deposit as prescribed in AFM 177-108. The accounting and finance officer will indicate receipt of the funds by signing and returning all copies of AF Form 1122a.

(f) The original and two copies of AF Forms 1122 and 1122a and a detailed account of all transactions of the summary court will be given to the commander for his approval and signature.

(1) The signed original form, with the account of the transactions of the summary court will be placed in the file established in accordance with Part 804 of this subchapter.

(2) One copy of each form, with any insignia, decorations, medals, other articles valuable chiefly as keepsakes, and all purely commercial papers, such as stocks, bonds, evidence of bank accounts, etc., will be forwarded to the U.S. Soldiers' Home, Washington, D.C. 20315, under the provisions of 10 U.S.C. 9712(f).

(3) The remaining copy will be retained for the record of the summary court.

(4) The account of the summary court transactions will be a detailed chronological report of each action

taken, and supported by documentary evidence as applicable.

Subpart C—Property of Deceased U.S. Civilians

§ 803.20 Which civilians are covered.

Any civilian serving with, employed by, or accompanying U.S. Armed Forces personnel at a place or commander under the jurisdiction of the Air Force.

§ 803.21 When the legal representative or next of kin is present.

The legal representative or next of kin will be permitted to take possession of the property. The procedure in § 803.15 will be used, as applicable.

§ 803.22 When the legal representative or next of kin is not present.

(a) *In the United States or U.S. possessions.* If property cannot be delivered or not claimed within a reasonable time, it will be delivered with all available information to the recipient (in this case, the person designated by the judicial officer or by the local civil government with jurisdiction over the estates of deceased persons; see § 803.15). If the deceased had personal property that is located outside the Conus, it may be shipped to the place designated by the local civil official, at his request, as directed in § 803.3, and AFM 75-4.

(b) *In a foreign country.* The commander will collect and safeguard the property, and request the nearest U.S. consulate to take possession and dispose of it in accordance with State Department procedures (and § 803.15, as applicable). Upon request of the State Department official concerned, personal property may be shipped to the place he designates, as directed in § 803.3 and AFM 75-4.

Subpart D—Property of Foreign Nationals

§ 803.30 Property of foreign nationals training in the United States.

None of this part applies to deceased foreign nationals who are training in the United States under Air Force jurisdiction. Unless otherwise directed, the following procedures will be used.

(a) The personal property of the deceased person will be forwarded to the appropriate Military Assistance Advisory Group (MAAG) for turnover to the country air force. Articles will be disposed of that cannot be shipped (for example, automobiles) in accordance with instructions of the appropriate country representative. Completed AF Forms 1122 and 1122a, in duplicate, must accompany this property; the recipient will be asked to sign and return the original (a self-addressed envelope will be enclosed).

(b) If the deceased had been issued DD Form 1173, "Uniformed Services Identification and Privilege Card," it will be withdrawn and forwarded to the issuing agency (shown on item 16 of the card) for disposition (see procedure in Part 809 of this subchapter).

§ 803.31 Property of foreign civilian employees.

The personal property will be delivered to the legal representative or next of kin promptly, as explained in this part, with the proper precautions taken to protect it from pilferage, damage, or loss.

(a) If the deceased person had been issued a DD Form 1173, it will be withdrawn and forwarded to the issuing agency (shown in item 16 of the card) for disposition (see Part 809 of this subchapter).

(b) If the property cannot be delivered, or it is not claimed, within a reasonable time, it will be delivered, with all available information about the decedent, to the person designated by the judicial officer of the local civil government that has jurisdiction over the estates of deceased persons.

(c) The proper receipts will be obtained, as directed by this part, and filed according to Part 804 of this subchapter, with a complete statement of action taken.

Subpart E—Property of Missing and Captured Persons

§ 803.40 Waiting period before disposal of the property.

The personal property of a missing or captured person will be held and safeguarded for 30 days before any action is taken to dispose of it; if circumstances warrant, the property may be held longer than 30 days. However, when the person's status:

(a) Has been changed from missing to captured, the property will be transferred to the custody of the person who would be legally entitled to receive it upon the person's death.

(b) Has been changed from missing to dead, the property will be disposed of under the procedures given here (Subparts B, C, and D) for deceased persons.

(c) Continues to be missing, the property will be transferred to the custody of the person who would be legally entitled to receive it upon the person's death.

Subpart F—Property of Indigent Persons Who Die on Air Force Installations

§ 803.50 Disposition of property under Air Force jurisdiction.

When no legal representative or next of kin can be located, and the appointment of a summary court-martial is not authorized under 10 U.S.C. 9712, the commander of the activity where the personal property is located will:

(a) Collect and safeguard the property and notify the State official who is responsible for the administration of the estate of persons who die without a designated legal representative, or known next of kin.

(b) Request the advice of the local staff judge advocate in the case.

Subpart G—Assignment of Responsibility for Effects Offices

§ 803.60 Establishment of an effects office.

(a) When combat conditions make it impracticable to ship personal effects direct to the recipient, the Commander, Air Force Logistics Command, will be responsible for the receipt of bulk or individual shipments of personal effects of deceased and missing persons, and will process them for delivery to the recipient.

(b) A command effects office may be established, at the discretion of the local commander, to receive, store, and dispose of personal effects. (If possible, he will assign this function to an existing organization.) The command effects office may appoint a summary court (in addition to the one appointed under § 803.10) to dispose of personal effects.

§ 803.61 Responsibility for disposing of effects.

Responsibility for collecting, inventorying, safeguarding, and disposing of personal effects and property will be as follows:

(a) *In forward areas.* (1) The unit commander will recover and dispose of personal effects of members of his command who are reported dead. Unless combat conditions make it impractical, he will forward effects direct to the person entitled to receive them (see Subpart B); if direct shipment is not feasible, he will forward effects to the command effects office.

(2) In places where collection of effects is not feasible, burial details are authorized to bury remains without removing or inventorying effects. When the remains are moved to a collecting point or cemetery, all personnel involved are responsible for safeguarding the effects. Effects will be removed from the remains only temporarily, for identification purposes.

(3) Graves registration personnel at cemetery will inventory and dispose of effects received with remains.

(b) *In rear areas.* (1) The unit commander will dispose of the personal effects of members of his command who are reported dead. He will forward the effects direct to the person entitled to receive them according to Subpart B; if conditions make direct shipment impossible, he will forward the effects to the command effects office.

(2) The hospital commander will dispose of personal effects of deceased personnel per paragraph (b)(1) of this section.

§ 803.62 Paying and collecting debts.

The summary court appointed under § 803.10 is legally authorized to pay undisputed local creditors and collect local debts due the deceased. When circumstances or distance make it impossible for him to collect property, liquidate accounts, and pay outstanding debts, the summary court appointed by the command effects office (see § 803.60) will assume further action in this respect.

Subpart H—Procedures for Disposing of the Effects of Deceased Persons

§ 803.70 Classes of effects.

When disposing of effects, they will be separated into the following classes:

(a) *Personal effects having intrinsic or sentimental value.* Includes jewelry, fountain pens, mechanical pencils, spectacles, cameras, wallets, billfolds, medals, insignia, money orders, traveler's checks, personal letters, diaries, keepsakes, Bibles, books, religious articles, and similar items; these items will not be withheld because they are stained or contaminated. They may often be restored by the command effects office or the CONUS Air Force Effects Office (see paragraph (a) of § 803.60). These items will be wrapped or packaged to avoid contaminating other items; flints and fluids removed from lighters and ink from fountain pens.

(b) *Items of no intrinsic or sentimental value.* These items (including those listed in § 803.12(a)(2)) and items of doubtful value will be forwarded so that the Effects Office may determine whether they have intrinsic or sentimental value.

(c) *Explosives and highly combustible items.* Such items will be withdrawn.

§ 803.71 Inventory of effects.

When effects are to be disposed of through the Air Force Effects Office, three copies of AF Form 1122 will be prepared. The original will be placed in the personal effects container; a copy retained for the originating unit, and one copy forwarded directly to the Air Force Effects Office. (A copy of this inventory will not be sent to the next of kin of the deceased.)

§ 803.72 Disposal of funds.

(a) *Found in effects.* If the amount exceeds $5, the money will be turned in to the nearest accounting and finance officer (this includes Military Payment Certificates; foreign currencies that do not exceed 1 month of the decedent's basic pay and allowances; and amounts collected from debtors and authorized sales of effects). Money in amounts less than $5 will be forwarded with the effects.

(b) *Accounting and finance officer.* A check for the amount turned in (see paragraph (a) of this section) will be prepared, payable to the Air Force effects officer; the object for which drawn "Exchange for cash—personal effects," will be shown. This check will be given to the effects officer or summary court.

(c) *Transmittal sheet.* When a check is drawn for funds of more than one person, the names and service numbers of the persons and the amount belonging to each will be listed on the transmittal sheet accompanying the check. This will enable the Air Force Effects Office to identify the funds readily.

(d) *Description of check.* Before mailing the check, the command effects officer or summary court will enter a brief description of the check (that is, the number, date, total amount, and symbol) on the original and all copies of AF Form 1122a. He will then forward the check by the fastest means to the Air Force Effects Office.

(e) *Listing of amounts.* In addition to the total amount on the check, a separate listing will be made on AF Form 1122a of the amount found with the effects. This will enable the Air Force Effects Office to determine the amount found with the effects of each person.

(f) *Undelivered Treasury Checks.* An undelivered U.S. Treasury Check, or a Military Payment Order will be disposed of as directed in § 803.15.

(g) *Mutilated currency refused by an accounting and finance officer.* Mutilated currency will be forwarded (in an

envelope) to the command effects office (with the decedent's personal effects) and a statement inserted identifying the deceased. Disposition of the mutilated currency will be shown on AF Form 1122a.

§ 803.73 Disposal of identification tags.

Identification tags are items of military equipment and are not considered personal effects.

§ 803.74 Shipping effects.

(a) *Determining the recipient.* The Air Force Effects Office will determine the recipient of effects forwarded to the command effects office, unless the theater effects officer determines that it is more practicable to transmit the effects direct to the recipient at Government expense, because the recipient resides within the country in which the effects are located. In this case, he will give the Air Force Effects Office a detailed report of the action taken, including the date, name and address of the addressee, and two copies of a completed AF Form 1122.

(b) *Package markings.* Each package or box containing effects will be plainly marked with the owner's full name, grade, service number, and organization; if more than one package or box is required, each container will be numbered: Box No. —— of —— boxes.

(c) *Damaged packages.* If a container has been tampered with, or is damaged enough to warrant investigating the contents, the receiving officer will immediately open it, examine the contents, and check them against the enclosed inventory list; if there is any shortage or damage, he will investigate further and include information about the shortage or damage in the container with the effects. Also, he will forward results of the investigation through channels to the Air Force Effects Office.

(d) *Shipping at Government expense.* Effects will be shipped to the United States (or owner, as in paragraph (a) of this section) at Government expense by any available means; receipts will be obtained at all points of shipment and transshipment.

(1) Small packages will be put into one large container to prevent loss or pilferage; on the outside of the large container the number of individual packages it contains will be noted.

(2) Effects will be kept in separate, locked compartments under the control of the security officer while en route to the United States.

Subpart I—Procedures for Disposing of the Effects of Allied Personnel

§ 803.80 Effects of allied dead.

Personal effects of allied dead will be handled and safeguarded the same as effects of U.S. military dead, but payment and collection of debts will not be made.

(a) The effects will be forwarded to the command headquarters responsible for arranging with the country concerned to dispose of them. A receipt will be obtained which will become a permanent part of the records of the unit responsible for making the burial.

(b) One copy of each personal effects inventory, conspicuously marked ALLIED, will be forwarded to command headquarters (not to the Air Force Effects Office) for later transmission to the liaison officer.

(c) When the remains are delivered to a civilian cemetery for burial, the effects will be listed on a memorandum advising the graves registration officer of higher headquarters of burial.

(d) Money will not be turned in to the accounting and finance officer. It will be forwarded with other effects to command headquarters. Packages containing such effects will be clearly marked "Allied Dead."

§ 803.81 Unclaimed and miscellaneous effects, and effects of other than known deceased.

(a) *Time held in command.* The command will hold for 120 days unclaimed or miscellaneous effects of persons interned, captured, or missing in action. If the effects are still unclaimed after this period and efforts to locate missing persons fail, the effects will be forwarded to the Air Force Effects Office.

(b) *Packaging and disposition.* Personal effects found in places other than on the remains or in storage will

90-112 O—82——4

be forwarded to the command effects office. Two copies of AF Form 1122 will be prepared. Place of recovery will be noted on the list of items; the items packaged; labeled "MISC EFFECTS"; and forwarded. Such effects will not be delivered to a collecting point or cemetery operated by graves registration personnel.

(c) *Lost property.* Lost property left at military installations or on trains or other common carriers will be forwarded to the command effects office. If the property is determined to belong to a deceased person, it will be disposed of as directed in § 803.72. If the property belongs to a person who is not a casualty, it will be disposed of in accordance with theater policy.

(d) *Return of missing person.* When a missing person returns, he will make a written request to the officer in charge of the command effects office that his funds and effects be returned to him.

(e) *Classified matter.* Organizational property, diaries, and records containing classified information will be disposed of as directed by higher authority.

PART 806—DISCLOSURE OF AIR FORCE RECORDS

Sec.

Subpart A—General Information

806.1 Purpose.
806.3 Types of requests covered by this part.
806.5 Special release procedures for certain types of records.
806.6 Definitions.
806.7 Responsibilities.
806.9 Requirements for annual report.
806.11 Actions after the effective date of this part.
806.13 Documentation.
806.15 Programs of instruction.

Subpart B—Policies Governing Disclosure of Records

806.17 Basic policies on disclosure.
806.19 Specific policies on disclosure.
806.21 Schedule of fees for searching and duplication under the Freedom of Information Act.
806.23 Records that may be withheld from disclosure.
806.25 Partial denial.

Subpart C—Disclosure and Denial Authorities

806.27 Disclosure authorities.
806.29 Disclosure authority for specialized requests.
806.31 Denial authorities.
806.33 Responsibilities of disclosure and denial authorities.

Subpart D—Processing Requests for Records

806.35 Use of functional address indicator.
806.37 Responsibilities of the Freedom of Information Manager.
806.39 Responsibilities of the DAD.
806.41 Processing procedures.
806.43 Notice of administrative extension.
806.45 Expedited handling required.

Subpart E—How the Public Submits Requests for Records

806.47 Identifying material requested.
806.49 Addressing requests.
806.51 Where to send requests.
806.53 Where to address requests for records of military personnel.
806.55 Where to address requests for Air Force technical, supply, and engineering publications and data.

Subpart F—Appeals From Denials to Make Records Available

806.57 Filing an appeal.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012; 5 U.S.C. 552.

SOURCE: 40 FR 7901, Feb. 24, 1975, unless otherwise noted.

Subpart A—General Information

§ 806.1 Purpose.

This part outlines policy and procedure on the disclosure of records, establishes mandatory time limits, and explains how members of the public may inspect or obtain copies of Air Force records, under the Freedom of Information Act (5 U.S.C. 552, as amended by Pub. L. 93-502). It implements Part 286 of this title. It applies to all Air Force activities. In case of a conflict, this part takes precedence over any existing Air Force directive dealing in whole or in part with the disclosure of records.

§ 806.3 Types of requests covered by this part.

(a) This part governs the disclosure of records to the general public, including military and civilian personnel who are acting as private citizens.

(b) In addition to the general procedures outlined in this part, some records are subject to specialized or limited disclosure procedures, such as those listed in § 806.5.

§ 806.5 Special release procedures for certain types of records.

Type of specialized request	Governing directive
Accident/incident investigation and reports.	AFR 127-4.
Background, criminal and counterintelligence reports of investigation.	Pt. 952 of this chapter.
Civilian personnel records	Federal personnel manual, ch. 294, and AF supplement.
Classified records	DOD ISPR 5200.1R/AFR 205-1.
Collateral investigations of aircraft and missile accidents.	AFR 110-14.
Computer system descriptions, programs and related documentation.	AFM 171-9.
Inspector General investigation	AFR 120-3.
Drug/alcohol abuse programs documentation.	AFR 30-2.
Inspection reports	AFR 123-1.
Litigation	Pt. 840 of this chapter.
Medical records	AFR 168-4.
Military personnel records	Pt. 806a of this chapter.
News media	AFR 190-12.
Procurement information reports	Pts. 1-39 of this title.
Release of test results on commercial equipment.	AFR 80-24.
Unclassified records of trial after courts martial.	AFM 111-1.

§ 806.6 Definitions.

(a) *Denial authority.* Anyone having the authority to deny the disclosure of records requested by the public.

(b) *Determination.* The decision either to grant or deny a request from the public for records.

(c) *Disclosure.* The act of making a record available for inspection or of providing a copy of the record to the public when requested.

(d) *Disclosure authority.* Anyone having the authority to disclose records requested by the public.

(e) *Freedom of Information Manager.* The person responsible for managing the Freedom of Information Program at each level.

(f) *Functional address indicator DADF.* DADF is the indicator to identify all forms of communications pertaining to requests under the Freedom of Information Act (see AFM 10-6, Air Force Standard Functional Address Symbol System).

(g) *Partial denial.* A determination that any portion of a requested record be withheld.

(h) *Records.* For the purpose of this part, "records" are defined as all books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by any agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the Government or because of the informational value of data in them (44 U.S.C. 3301). This definition should be used as a guide.

(1) The term "records" does not include objects or articles such as structures, furniture, paintings, sculpture, three-dimensional models, vehicles, equipment, and so forth, whatever their historical value as "evidence."

(2) Records are not limited to permanent or historical documents; they include contemporaneous ones as well.

(3) Formulae, designs, drawings, research data, computer programs, technical data packages, etc. are not considered "records" within the Congressional intent of 5 U.S.C. 552. Because of development costs, utilization, or value, these items are considered property, not preserved for information value or as evidence of agency functions, but as exploitable resources to be utilized in the best interest of all the public.

(i) Requests for copies of such material shall be evaluated in accordance with policies expressly directed to the appropriate dissemination or use of such property.

(ii) Requests to inspect such material to determine its content for informational purposes shall normally be

granted, however, unless inspection is inconsistent with the obligation to protect the property value of the material as, for example, may be true for certain formulae.

§ 806.7 Responsibilities.

In carrying out the objectives and requirements of the Freedom of Information Act, as amended, the responsibilities in paragraphs (a) through (g) of this section are assigned:

(a) *Administrative Assistant to the Secretary of the Air Force (SAF/AA).* Overall responsibility within the Air Force for implementation of and compliance with the Act. Responsible for final decisions of appeals (see § 806.75).

(b) *Director of Administration (HQ USAF/DA).* Responsible for administrating and supervising the policies and procedures prescribed within this part; for submitting the annual report; and for developing an Air Force program of instruction on the Freedom of Information Act.

(c) *Commanders of major commands and separate operating agencies of the Air Force.* Responsible for implementing this part within their commands and agencies.

(d) *FOI Managers (DAD) at all levels of the Air Force.* Overall responsibility for controlling and processing all requests for records; for obtaining recommended determinations from the office of primary responsibility (OPR) for the records requested; for collecting fees; and for submitting required reports.

(e) *Disclosure and denial authority.* Their responsibilities are set forth in § 806.33.

(f) *Office of primary responsibility for the requested record.* Responsible for providing the requested record and for assisting the disclosure authority in making a determination within prescribed 10-day time limit.

(g) *The office designated by the FOI Manager to process requests.* Responsible for control and suspense of requests and promptly making records available within the prescribed 10-day time limit.

§ 806.9 Requirements for annual report.

The DAD at each major command and separate operating agency of the Air Force and HQ USAF/DADP must furnish an annual report on Freedom of Information Act activities during the calendar year. The report control symbol is DD-PA(A)1365. The report must be submitted to HQ USAF/DAD on or before January 15 of each year. The report must include:

(a) The number of requests processed under this part.

(b) The number of determinations made not to comply with requests for records made under this part and the reasons for each such determination.

(c) The names and titles or positions of each person responsible for the denial of records requested under this part, and the number of instances of participation for each.

(d) The total amount of fees collected for making records available under this part.

(e) A copy of each command supplement or other instructions issued to implement this part.

(f) All information that indicates efforts to instruct and educate personnel and to administer fully the Freedom of Information Act.

(g) Such data on the costs of processing requests under this part as can reasonably be ascertained or estimated.

(h) Any problems incurred in implementing this part and any solutions for those problems.

§ 806.11 Actions after the effective date of this part.

Any requests for records or administrative appeals still pending in the Air Force on February 19, 1975 (the effective date), will become subject to this part.

§ 806.13 Documentation.

Dispose of documentation prescribed by this part in accordance with AFM 12-50, Disposition of Air Force Documentation.

§ 806.15 Programs of instruction.

HQ USAF/DAD will establish programs of instruction on the provisions and requirements of this part for all

officials and employees who contribute to the implementation of the Freedom of Information Act.

Subpart B—Policies Governing Disclosure of Records

§ 806.17 Basic policies on disclosure.

(a) It is the policy of the Department of Defense and the Air Force to make available to the public the maximum amount of information and records concerning their operations and activities.

(b) This basic policy is subject to the necessary exemptions recognized in 5 U.S.C. 552(b); that is, certain records may need to be withheld from public disclosure, as explained in § 806.23. However, even when such nondisclosure is so authorized, the request for disclosure may be granted at the sole discretion of the Air Force, if no significant and legitimate Governmental purpose is served by withholding them.

(c) Determination that a record should be withheld must not be influenced by the possibility that its release might suggest administrative error or inefficiency or might otherwise embarrass the Air Force or an official of the Air Force.

(d) A request for a record is considered satisfied when one copy is provided, which may be reproduced by the requester.

§ 806.19 Specific policies on disclosure.

(a) Any reasonably described material in the possession of the Air Force that qualifies as a "record" (as defined in § 806.6(h)) and is not exempt from disclosure under § 806.23, should be made available upon written request from any person.

(b) To be considered reasonably described, the record must already exist at the time of the request; that is, there is no obligation to create a record to satisfy a request for information. However, if the information exists in the form of several records at so many different locations that gathering the information would involve excessive administrative costs, the requester should be referred to the sources at those locations.

(c) A requester must be reasonably specific in identifying each record he would like made available. The Air Force is not required to permit the requester to browse through entire files or large series of records to find a record he may then identify. The Air Force must make a reasonable effort to locate any records requested.

(1) A request for a specific record should not be denied solely because the record is maintained by computer.

(2) The request may be denied only by an official designated in § 806.29 as explained in Subpart C of this part. (Other Air Force directives may also contain specific procedures for release or denial of records (§ 806.5).)

(d) Under 5 U.S.C. 552(a)(4)(A)) and 31 U.S.C. 483a, requesters are charged the reasonable standard costs to the Air Force for searching and duplication.

(1) Charges are determined as explained in § 806.21.

(2) No charge is made to the public for the use of an established reading room or reference library.

(3) The fee shall not include the cost of determining whether the record is exempt from disclosure under § 806.23 or whether it would serve a significant and legitimate Governmental purpose to withhold the record.

(e) Official requests for records received directly from foreign governments, their representatives, or international commands may be answered only by offices holding delegation of disclosure authority letters as described in AFR 200-9, Disclosure of Classified Military Information to Foreign Government and International Organizations. Other Air Force recipients must send such correspondence to the foreign disclosure policy office within their major command or to HQ USAF/CVAFI.

§ 806.21 Schedule of fees for searching and duplication under the Freedom of Information Act.

(a) *Publications, forms and reports:*

(1) *Shelf stock of printed or microfiche medium.* Requesters may be furnished more than one copy of a publication or form if it does not deplete

stock levels below projected planned usage.

Minimum fee, per request	$2.00
Plus	
Forms, per copy	.05
Publications, per printed page	.01
Microfiche, per fiche	.06
Reports per printed page	05

(Examples: Cost of 20 forms, $3.00 ($2.00 plus five cents per page); cost of a printed publication with 100 pages, $3.00 ($2.00 plus one cent per page); cost of a microfiche publication consisting of 10 fiche, $2.60 ($2.00 plus six cents per fiche)

(2) *Office copy reproduction (when shelf stock is not available).*

Minimum charge up to six reproduced pages	$2.00
Minimum charge, first fiche	5.00
Each additional page	.05
Each additional fiche	.10

(3) *Duplication of other issuances.*

Minimum charge up to six pages	$2.00
Each additional page	05

(b) *Search fees.*

Clerical search, per hour	$6.50
Minimum charge	3.50
Professional search (includes computer programer time and review to determine whether a record comes within the scope of a request), per hour	13.00
Minimum charge	10.00

NOTE: Computer service charges are to be based on the actual computer configuration used and based only on direct costs for the use of the central processing unit, plus input/output devices, plus memory capacity.

(c) *Exceptions.* No fee should ordinarily be charged if the requester is an indigent; if the fee amounts to less than $3.00; if the record is not located; or if the record is determined to be exempt from disclosure.

(1) In general, charges may be waived in the public interest when:

(i) The recipient of the benefits is engaged in nonprofit activity designed for public safety, health or welfare;

(ii) Payment of the full costs or fee by a state, local government or nonprofit group would not be in the interest of the program;

(iii) The incremental cost of collecting the fees would be an unduly large part of the receipts from the activity.

(2) A refusal to waive charges by the official responsible for the initial decision on the request may be appealed to the Secretary of the Air Force or his designee for final approval.

(d) *Collections.* (1) Fees will ordinarily be collected in advance of rendering the service. In some instances, it may be more practical to collect the fees at the time the service or property is conveyed to the recipient, but only when the request specifically states that whatever cost involved will be acceptable, or acceptable up to a specified limit that will cover the anticipated cost.

(2) Collection of scheduled fees will normally be deposited to Miscellaneous Receipts of the Treasury.

(3) Search fees are assessable even when no records responsive to the request (or no records not exempt from disclosure) are found, provided the requester is advised of this requirement, at the time the estimated charges are presented to the requester for approval and he agrees to incur the cost of search.

§ 806.23 Records that may be withheld from disclosure.

Records or portions of records which fall in one or more of the exemptions listed in §§ 806.23(a) through 806.23(i) are exempt from disclosure to the public. Nevertheless, any request for such a record will not be denied unless it is also determined that a significant and legitimate Government purpose would be served by exercising the exemption. If only a portion of the record is determined to be exempt, the rest of the record must be disclosed (see § 806.25).

(a) Those properly and currently classified in the interest of national defense or foreign policy, as specifically authorized under the criteria established by Executive Order and implemented by regulations.

(b) Those containing rules, regulations, orders, manuals, directives, and instructions relating to the internal

personnel rules or to the internal practices of the Air Force, if their release to the public would substantially hinder the effective performance of a significant function of the Air Force.

(1) Operating rules, guidelines and manuals for Air Force investigators, inspectors, auditors, or examiners, and certain schedules or methods of operation which would reveal:

(i) Negotiating and bargaining techniques.

(ii) Bargaining limitations and positions.

(iii) Inspection schedules and methods.

(iv) Audit schedules and methods.

(2) Personnel and other administrative matters such as examination questions and answers used in training courses or in the determination of qualifications of candidates for employment, entrance to duty, advancement, or promotions.

(c) Those containing information which statutes authorize or require be withheld from the public. The authorization or requirement may be found in the terms of the statute itself or in Executive Orders or regulations authorized by, or in implementation of, a statute.

(1) Trade, technical, and financial information provided in confidence by businesses.

(2) National Security Agency information.

(3) Any records containing information relating to inventions which are the subject of patent applications on which the Patent Secrecy Orders have been issued.

(4) The Privacy Act of 1974 (5 U.S.C. 552a).

(5) Restricted data and formerly restricted data.

(d) Those containing trade secrets or commercial or financial information which the Air Force receives from a person with the understanding that it will be retained on a privileged or confidential basis in accordance with customary handling of such records. Such records are those the disclosure of which would cause substantial harm to the competitive position of the person providing the information; impair the Government's ability to obtain necessary information in the future; or impair some other legitimate Government interest. Examples include records which contain:

(1) Commercial or financial information received in confidence in connection with loans, bids, contracts, or proposals, as well as other information received in confidence, or privileged, such as trade secrets, inventions and discoveries, or other proprietary data.

(2) Statistical data and commercial or financial information concerning contract performance, income, profits, losses and expenditures if offered and received in confidence from a contractor or potential contractor.

(3) Information customarily considered privileged or confidential under the rules of evidence in the Federal courts, such as information coming within the doctor-patient, lawyer-client, and priest-penitent privileges.

(4) Personal statements given in the course of inspections, investigations, or audits, where such statements are received in confidence from the individual and retained in confidence because they cover trade secrets or commercial or financial information normally considered confidential or privileged or because they are essential to an effective inspection, investigation, or audit.

(5) Data provided in confidence by private employers in connection with locality wage surveys which are used to fix and adjust pay schedules applicable to prevailing rate employees within the Air Force.

(e) Except as provided in §§ 806.23(e)(2) through 806.23(e)(5), internal communications within and among agencies and components.

(1) Examples include:

(i) Staff papers containing staff advice, opinions, or suggestions.

(ii) Information received or generated by the Air Force preliminary to a decision or action, including draft versions of documents, where premature disclosures would interfere with the orderly conduct of Government. (Preliminary or draft documents received from other Governmental organizations are not Air Force records and may not be released by the Air Force without the agreement of the organization).

(iii) Advice, suggestions, or reports prepared on behalf of the Air Force by boards, committees, councils, groups, panels, conferences, commissions, task forces, or other similar groups that are formed by the Air Force to obtain advice and recommendations, or by individual consultants.

(iv) Those portions of Air Force evaluations of contractors and their products which contain recommendations or advice by Government employees about the contractor or product.

(v) Advance information on such matters as proposed plans to procure, lease, or otherwise acquire and dispose of materials, real estate, facilities, or functions when such information would provide undue or unfair competitive advantage to private personal interests.

(vi) Records which are exchanged among agency personnel or within and among components or agencies preparing for anticipated legal proceedings before any federal, state or military court or before any regulatory body.

(vii) Reports of inspections, audits, investigations or surveys which pertain to safety, security, or the internal management, administration, or operation of the Air Force.

(2) If any such intra- or inter-agency record, or reasonably segregable portion of such record would routinely be made available through the discovery process in the course of litigation with the Air Force, that is, the process by which litigants obtain information from each other that is relevant to the issues in a trial or hearing, then it should not be withheld from the general public. If, however, the information would only be made available through the discovery process by special order of the court based on the particular needs of a litigant balanced against the interests of the Air Force in maintaining its confidentiality, then the record or document should not be made available to a member of the general public.

(3) Intra- or inter-agency memorandums or letters which are factual, or those reasonably segregable portions which are factual, are routinely made available through discovery and should, therefore, be made available to a requester unless the factual material is otherwise exempt from release.

(4) A direction or order from a superior to a subordinate, though contained in internal communication, is generally not withholdable from a requester if it constitutes policy guidance or a decision, as distinguished from a discussion of preliminary matters that would compromise the decision-making process.

(5) An internal communication concerning a decision which subsequently has been made a matter of public record should normally be made available to a requester when it furnishes the best support, explanation, or rationale for the decision.

(f) Information in personnel and medical files, as well as information in similar files that if disclosed to a member of the public would result in a clearly unwarranted invasion of personal privacy.

(1) Examples of files similar to personnel and medical files include:

(i) Those compiled to evaluate or adjudicate the suitability of candidates for civilian employment and the eligibility of individuals, civilian, military, or industrial, for security clearances or for access to particularly sensitive classified information.

(ii) Files containing reports, records, and other material pertaining to personnel matters in which administrative action, including disciplinary action, may be taken.

(2) In determining whether the release of information would result in a clearly unwarranted invasion of personal privacy, consideration should be given to the stated or assumed purpose of the request. When determining whether a release is clearly unwarranted, the public interest in satisfying this purpose must be balanced against the sensitivity of the privacy interest being threatened.

(3) When the only basis for withholding information is protection of the personal privacy of an individual who is the subject of the record, the information should not be withheld from him or from his designated legal representative. A clearly unwarranted invasion of the privacy of others appearing in that record may, however, constitute a basis for deleting reason-

ably segregable portions of the record even when providing it to the subject of the record.

(4) An individual's personnel, medical, or similar files may be withheld from him or from his designated legal representative only to the extent consistent with the Privacy Act of 1974 (5 U.S.C. 552a), after its effective date of September 27, 1975.

(g) Those investigative records compiled for the purpose of enforcing civil, criminal, or military law, including the implementation of Executive Orders, or regulations validly adopted pursuant to law.

(1) But only to the extent that their release would:

(i) Interfere with enforcement proceedings;

(ii) Deprive a person of the right to a fair trial or an impartial adjudication;

(iii) Constitute an unwarranted invasion of personal privacy;

(iv) Disclose the identity of a confidential source;

(v) Disclose confidential information furnished only from a confidential source obtained by a criminal law enforcement authority in a criminal investigation or by an agency conducting a lawful national security intelligence investigation;

(vi) Disclose investigative techniques and procedures not already in the public domain and requiring protection against public disclosure to insure their effectiveness;

(vii) Endanger the life or physical safety of law enforcement personnel.

(2) Examples include:

(i) Statements of witnesses, and other material developed during the course of the investigation, and all materials prepared in connection with related Government litigation or adjudicative proceedings.

(ii) The identity of firms or individuals suspended from contracting with the Air Force or being investigated for alleged irregularities when no indictment has been obtained nor any civil action filed against them by the United States.

(iii) Information obtained in confidence (expressed or implied) in the course of a criminal investigation by a criminal law enforcement agency or office within the Air Force or a lawful national security intelligence investigation conducted by an authorized agency or office within the Air Force for the purpose of obtaining affirmative or counter intelligence information or background investigation or eligibility for access to classified information.

(3) The right of individual litigants to investigative records currently available by law is not diminished.

(4) When the subject of an investigative record is the requester of that record, it may be withheld after September 27, 1975, only in accordance with regulations implementing the Privacy Act of 1974 (5 U.S.C. 552a). After September 27, 1975, the effective date of the Privacy Act of 1974, the identity of the source of information obtained in confidence may be withheld in accordance with an implied or express promise of confidentiality given prior to that date and in accordance with an express promise of confidentiality after that date. Information from which the confidential source can be deduced may also be withheld.

(h) Those contained in or related to examination, operating or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions.

(i) Those containing geological and geophysical information and data (including maps) concerning wells.

§ 806.25 Partial denial.

Exempt portions of a requested record should be deleted and the remaining reasonable segregable portions should be disclosed to the requester. If the meaning of the nonexempt portions is distorted by the deletions, or if the nonexempt portions of the record, those exempt portions indirectly reveal the nonexempt portions which result in the distortion or revelation do not need to be disclosed.

(a) Here, reasonable segregation means segregating the record by the portions that were separately evaluated under a system for designating exempt portions at the time the record was originated. (To illustrate, see how certain paragraphs in DOD

ISPR 5200.1R have been designated as classified information.)

(b) Each deletion shall be fully justified in writing. If any part of a requested record is withheld it is considered a partial denial, and §§ 806.31(b) and 806.33(a)(3).

[40 FR 7901, Feb. 24, 1975; 40 FR 17841, Apr. 23, 1975]

Subpart C—Disclosure and Denial Authorities

§ 806.27 Disclosure authorities.

The authority to disclose records of a routine nature, such as standard publications, photographs and local reports, may be delegated to a lower level than indicated in § 806.27 (a) and (b). This level, however, must be high enough to insure that releases are made by a responsible authority and according to the policy outlined in this part.

(a) Except for the types of records listed in § 806.29, or as specifically authorized by other Air Force directives, the following officials in § 806.27(a) (1) and (2) have authority to disclose records:

(1) Chiefs of offices at directorate or higher level at HQ USAF.

(2) Commanders at major commands or separate operating agency of the Air Force. This authority may be delegated to directorate or comparable level at major command headquarters and to the level of installation, wing or comparable commanders.

(b) The officers and officials listed in § 806.29 have authority to disclose or deny the specific types of records cited, if appropriate under this part.

§ 806.29 Disclosure authority for specialized requests.

Specialized type of record	Who is the disclosure authority
For use in litigation	The Judge Advocate General, or other authority listed in Part 840 of this title.
Records of trial after courts-martial	The Judge Advocate General, or other authority listed in AFM 111-1.
Medical records	The director, base medical service, or a designated medical officer, subject to the requirements of AFM 168-4.
Inspector General report of investigation	As outlined in AFR 120-3.
Inspection reports	As outlined in AFR 123-1.
Primary accident/incident investigation (includes ground/explosive accidents).	As outlined in AFR 127-4.
Collateral accident investigation reports of investigations.	As outlined in AFR 110-14.
AF Office of Special Investigation reports of investigations.	As outlined in Part 952 of this title.
Classified records	The original classifier or the office currently responsible for the classification of the subject matter pursuant to DOD ISPR 5200.1R.

[40 FR 7901, Feb. 24, 1975; 40 FR 17841, Apr. 23, 1975]

§ 806.31 Denial authorities.

The authority to deny the disclosure of records to the public will not be delegated to a lower level than specified in paragraph (a) of this section unless approved by SAF/AA. Such request will be forwarded to HQ USAF/DA.

(a) Only the following officials or their designee have the authority to deny the release of records:

(1) Deputy chief of staff and chiefs of comparable offices or higher level at HQ USAF.

(2) Commanders of major commands or of separate operating agencies of the Air Force.

(b) These denial authorities will, however, consult with the Staff Judge Advocate before making a determination to deny, or partially deny, a request for disclosure of records.

§ 806.33 Responsibilities of disclosure and denial authorities.

(a) The officials who have been designated as disclosure and denial authorities (see §§ 806.27 and 806.31) will:

(1) Consider that a request is received by the Air Force when it is received by the DAD responsible for processing such requests; also within 10 days after its receipt (except Saturdays, Sundays, and legal public holidays), determine whether or not to comply with the request. Failure to make a determination within the time

limits permits the requester to seek immediate judicial action.

(2) Immediately notify the person making the request of this determination. If this determination is adverse, notify the requester of the reason and of the right to appeal. (See § 806.57 for the appeal procedure.)

(3) The official who denies a request must send a copy of the denial to HQ USAF/JACL, Washington, D.C. 20314, together with a copy of the incoming request. The notice of denial must state the name and title or position of the official who denied the release.

(4) In unusual circumstances, as outlined in § 806.43, notify the requester that the processing will require an administrative extension of up to 10 workdays (except Saturdays, Sundays, and legal public holidays).

(5) Make a timely determination on whether to approve or deny a request. If the determination cannot be met within the time limits, notify the next highest command in writing, signed by proper authority, and explain the reason for noncomplying within the time limit. Send an information copy of this notification to HQ USAF/JACL and DAD, Washington, D.C. 20330, together with a copy of the request.

[40 FR 7901, Feb. 24, 1975; 40 FR 17841, Apr. 23, 1975]

Subpart D—Processing Requests for Records

§ 806.35 Use of functional address indicator.

The functional address indicator DADF will be used throughout the Air Force to designate the office responsible for processing all Freedom of Information requests for records from the public.

§ 806.37 Responsibilities of the Freedom of Information Manager.

Documentation management officers and documentation managers at all levels of the Air Force are designated as Freedom of Information Managers. The Freedom of Information Manager has the overall responsibility for the processing of all requests for records.

§ 806.39 Responsibilities of the DADF.

Within each activity, the DADF is the office of responsibility for processing requests for records. As such, it will:

(a) Be the focal point for:

(1) Receiving and processing requests for records, as explained in § 806.41.

(2) Providing facilities and services for inspecting, copying, and furnishing extra copies of records.

(3) Collecting fees and charges, if appropriate. Charge for publications and forms and for searching and duplicating records according to § 806.21. If a request is received for a publication that AFR O-series indicates is on sale at the Government Printing Office, inform the requester that:

(i) A copy will be provided for him at the prevailing rate, if he desires; but

(ii) He may be able to purchase the document at a lower price from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

(b) Make available to the general public, the reference use of master publication libraries established under AFR 5-31, Publications Libraries and Individual Publications Sets. Do not charge for the use of normal library research services.

(1) If the document requested is a departmental publication that has been marked "FOR OFFICIAL USE ONLY" in accordance with AFR 12-31, Use and Protection of "For Official Use only" Information, transfer the request to HQ USAF/DADF for a response under the policies outlined in this part (especially § 806.43(c) for guidance).

(2) If the document requested is a departmental publication that has not been marked "FOR OFFICIAL USE ONLY," make it available promptly, without review.

(3) If the publication contains copyrighted material, it may be made available for public inspection, but because the sale or copying of such publications may be restricted, refer the request to OPR for processing under AFR 110-8, Inventions, Patents, Copyright, and Trademarks.

(c) Establish coordination and local working agreements between adminis-

trative reference libraries and other functional areas that maintain technical, professional, and specialized types of documentation.

(d) Notify the requester that the request cannot be satisfied if the record is not reasonably described. Request that, if possible, the requester send further identification. This kind of notification is not considered a denial under § 806.23.

(e) Send requests promptly and directly to other Government agencies if the requested record is in their possession. Notify the requester of the referral. If the request is for copies of material primarily concerning a member of the Congress or a Congressional committee, refer the requester to the member of the committee involved.

§ 806.41 Processing procedures.

When a request is received for disclosure of records under the Freedom of Information Act, DAD will:

(a) Record the date and time the request was received and assign a suspense date to the request.

(b) Acknowledge receipt of request if 10 or more workdays have elapsed between the postmark date of the request and the date received, or where unusual problems are readily apparent. Acknowledgment of routine requests is not necessary.

(c) Refer the request to the office that has possession of the record and any other office that should be consulted (for example, the Staff Judge Advocate) in determining whether to disclose the record to deny the request.

(d) Notify the information officer, if the request asks for records that contain potentially newsworthy material or if the request is received from a representative of the news media.

(e) If the records have been retired to a record center (or other repository), take the action outlined in AFM 12-50, chapter 9, and in the attachments to that directive, Disposition of Air Force Documentation.

(f) Consult with higher headquarters or other activities that have an interest in the requested material (or ask the office of primary responsibility to do this). For example, if the document is one that the Air Force received, it may be proper to consult the originator; conversely, if the Air Force originated the document, it may be proper to consult the recipient in determining whether it should be released.

(g) If the disclosure authority determines that the Air Force may make the material available, take one of the actions in § 806.41(g) (1) and (2).

(1) If the requester asked to inspect the record, tell him where and when it may be inspected. Inform him of the amount of the fee, if one is to be charged under § 806.21.

(2) If the requester asked for a copy of the record, inform him of the fee required under § 806.21 and explain that DAD will furnish the copy upon payment. If the request is urgent, he may be given the copy before payment.

(h) If the disclosure authority is not authorized by § 806.27 to deny the request, DAD should send the proposed denial directly to the proper denial authority for decision; it will include the case file and a statement of reasons for not disclosing the requested material. This referral must be given the highest priority action, because the denial authority must make this determination within the prescribed time limits.

(i) The denial authority makes the determination to disclose or deny the request for records within the prescribed time limitations.

§ 806.43 Notice of administrative extension.

In unusual circumstances, the FOI Manager has the authority to authorize an administrative extension of the time limit for processing a request by giving written notice to the requester, explaining the reason for the extension, and the date on which a notice of determination is expected to be dispatched. The notice will not specify a date that would be an extension of more than 10 workdays (except Saturdays, Sundays, and legal public holidays). Copies of this written notice must be sent to the next highest command with information copies to HQ USAF/JACL, Washington, D.C. 20314,

and USAF/DAD, Washington, D.C. 20330. Unusual circumstances means:

(a) The need to search for and collect the requested records from field facilities or other establishments that are separate from the installation processing the request.

(b) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request.

(c) The need for consultation, which must be conducted with all practicable speed.

(1) With another agency having a substantial interest in the determination of the request, or

(2) Among two or more geographically separated installations of the Air Force having substantial subject matter interest therein.

§ 806.45 Expedited handling required.

The Air Force will give highest priority at each echelon to the handling of any request from a member of the public to inspect or copy records. Each Air Force office should make every effort to avoid creating procedural obstacles and compensate for internal Air Force organizational problems, for example, when a reorganization (or transfer of function) contributes to an improperly directed request. Specifically:

(a) If an office received an improperly directed request for records, it must notify the proper DADF office immediately and ask for instructions on how to refer the request.

(b) All Air Force personnel must make every reasonable effort to assist requesters in directing requests for records to the proper authorities (see AFR 11-25, Communications with and Service to the Public).

Subpart E—How the Public Submits Requests for Records

§ 806.47 Identifying material requested.

Requests to inspect or obtain copies of records will be made in writing. The request should contain at least the information in paragraphs (a) through (d) of this section.

(a) An identification as complete as possible of the desired material, including (if known) its title, description, its number, date, and the issuing authority.

(b) If the request concerns a matter of official record about civilian or military personnel, the request must identify the person as follows: first name, middle name or initial, and surname; date and place of birth; and social security account number (or Air Force service number), if known.

(c) A statement as to whether the requester wishes to inspect the record or obtain a copy of it.

(d) If the request is for information which is part of a military service record, the request may be submitted on a Standard Form 180, Request Pertaining to Military Records. Any agency may furnish copies of the SF 180 to the public to facilitate an unofficial inquiry, or may direct a nongovernmental organization to the Superintendent of Documents to purchase quantities of the form.

§ 806.49 Addressing requests.

To expedite processing, requesters should address their requests as shown in § 806.51. In addressing correspondence concerning their request for records to any Air Force activity, requesters should use the functional address indicator DADF (DADF is the standard Air Force-wide symbol to identify a request for records under the Freedom of Information Act). The mandatory time limit does not begin until the request is received by the proper DADF responsible for processing the request.

§ 806.51 Where to send requests.

Nature of request	Address the request to
For the matters of official record, for use in litigation	HQ USAF/JACL (thru HQ USAF/DADF) Washington, D.C. 20330, or thru DADF at the activity where the record is located.
For matters of record concerning civilian employees currently employed by the Air Force.	The civilian personnel officer (thru DADF) of base or activity where the civilian is employed.
For matters of record concerning civilian employees no longer employed by the Federal service.	National Personnel Records Center, GSA (Civilian Personnel Records), 111 Winnebago Street, St. Louis, Missouri 63118.
For matters of record concerning members and former members of the Air Force, Air Force Reserve or Air National Guard.	See § 806.53 of this part on where to address these inquiries.
For standard publications (that is, regulations, etc., as defined in AFM 5–1, Air Force Publications Management Program).	The DADF at nearest Air Force installation, except: for the District of Columbia, to HQ USAF/DADF, Washington, D.C. 20330; and for remainder of the Metropolitan Washington, D.C. area, to HQ COMD/DADF, Bolling AFB, Washington, D.C. 20332.
For Air Force technical, supply and engineering publications and data.	See § 806.53 of this part.
For major command standard (that is, administrative) publications.	The DADF at the major command headquarters.
For reports of investigation compiled by the Air Force Office of Special Investigations.	HQ AFOSI/DADF, Forrestal Building, Washington, D.C. 20314.
For audiovisual materials (still photographs, motion pictures, and audio recordings) held at USAF depositories.	HQ USAF (SAF/OIPL) thru AF/DADF, Washington, D.C. 20330.
For other records, where the location of the record is known.	The DADF where the record is located.
For other records, where the location is not known.	HQ USAF/DADF, Washington, D.C. 20330.

§ 806.53 Where to address requests for records of military personnel.

NOTE: Records of members and former members of the Air Force are maintained in different locations, depending on the member's current status. Address requests for such records to the address indicated in this section.

Present military status	Present/past military rank	Proper address
On extended active duty	A commissioned officer, or warrant officer	Organization of assignment, if known; otherwise, to: AFMPC/DPMD RO (DADF), Randolph Air Force Base, Tex. 78148.
Do	An airman	Organization of assignment, if known; otherwise, to: AFMPC/DPMD RA (DADF), Randolph Air Force Base, Tex. 78148.
A member of the Air Force Reserve, not on extended active duty	A commissioned officer or warrant officer or airman	ARPC/DADF, 3800 York St., Denver, Colo. 80205.
A member of the Air National Guard, not on extended active duty	A commissioned officer, or warrant officer	Do.
Do	An airman	Adjutant General of the State (or District of Columbia or Commonwealth of Puerto Rico).
Retired for temporary disability	A commissioned officer or warrant officer	AFMPC/DPMD RO(DADF), Randolph Air Force Base, Tex. 78148.
Do	An airman	AFMPC/DPMD RA(DADF), Randolph Air Force Base, Tex. 78148.
Retired with pay	A general officer	AFMPC/DPMD RO(DADF), Randolph Air Force Base, Tex. 78148.
Do	Other than a general officer	National Personnel Records Center (Military Personnel Records) 9700 Page Blvd., St. Louis, Mo. 63132.
Former member no longer has an Air Force affiliation	A commissioned officer, warrant officer, or airman	Do.
Unknown	Unknown	AFMPC/DPMD RM(DADF), Randolph Air Force Base, Tex. 78148.

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§ 806.55 Where to address requests for Air Force technical, supply, and engineering publications and data.

Type of publication	Proper address
Air Force Technical Orders (TO's). If the specific TO number is unknown, describe the desired TO, including the name of the equipment, manufacturer, model, serial, part number, and any other identifying information on the particular equipment.	Oklahoma City ALC(DADF), Tinker Air Force Base, Oklahoma 73145; or the prime ALC for the specific TO, if known.
Air Force Technical Reports (TR's), when specific source is unknown.	NTIS, 5285 Port Royal Road, Springfield, Virginia 22151 (Exception: for DDC users, to: DDC, Cameron Station, Alexandria, Virginia 22314.)
USAF and DOD Federal Supply Catalogs and related catalog publications indexed in USAF S-2A-1.	AFLC/DADF, Wright-Patterson Air Force Base, Ohio 45433
Cataloging Handbooks (H2-1, H2-2, H2-3, etc.) and Federal manuals for supply cataloging (M1-1, M1-2, M1-3, etc.), and Master Cross Reference Indexes, CRL-1 and CRL-2.	Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.
Engineering drawing and associated lists	AFLC(DADF), Wright-Patterson Air Force Base, Ohio 45433
Armed Services Procurement Regulations (ASPR's) and Air Force supplements to ASPR's.	Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.
AF publications pertaining to automated data systems. Specifications, standards, military handbooks, etc. Indexed in the DOD Index of Specifications and Standards (DOD-ISS).	AF/DSDC(DADF), Gunter AFS, Alabama, 36114. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, Pennsylvania 19120.
The index to DOD-ISS above (including part 1, alphabetical listing, and part 2, numerical listing).	Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

Subpart F—Appeals From Denials To Make Records Available

§ 806.57 Filing an appeal.

(a) When a request to copy or inspect a record has been denied, the requester may appeal the denial, separately in writing, to the Office of the Secretary of the Air Force, within 45 days of denial.

(1) A requester will not be considered to have exhausted his administrative remedies within the Department of the Air Force unless such an appeal has been filed and a secretarial decision made on that appeal. That decision is the final Air Force action on the request (see exception in paragraph (a)(2) of this section).

(2) The requester will also be deemed to have exhausted his administrative remedies within the Air Force, if the Air Force fails to comply with the time limits prescribed in this part.

(b) The requester should address the appeal to the Office of the Secretary of the Air Force and send it through the denial authority who denied the request. (For example, if HQ AFLC denied the request, the requester should send the appeal to the Office of the Secretary of the Air Force through Commander, AFLC, Wright-Patterson Air Force Base, Ohio 45433.) The appeal should outline the requester's arguments and reasons for submitting the appeal. The appeal may not be made in person, except at the discretion of the Secretary of the Air Force.

(c) The denial authority will send the appeal to HQ USAF/JACL promptly for processing, together with a copy of the requested record. (If the requested record is too bulky to send, describe it sufficiently to permit a proper determination on the request.) If the initial time limit was extended, give the number of additional days used in making the determination. HQ USAF/JACL will either release the requested record or forward the appeal to the Office of the Secretary, SAF/AA, for final determination.

(d) Within 20 workdays (except Saturdays, Sundays, and legal public holidays) after the appeal is received by the Office of the Secretary of the Air Force, a determination will be made on that appeal.

(1) If the denial is upheld, in whole or in part, the Secretary's office will

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notify the requester of that determination, explain the reasons for the denial, and inform the requester of his right to a judicial review of that determination, upon complaint to the District Court of the United States in one of the following places: in the district where the requester resides; in the district where the requester's principal business is located; in the district where the Air Force records are situated; or in the District of Columbia.

(2) If the appeal is granted, OSAF will advise the requester in writing.

(3) If the final denial is based in whole or part on a security classification, the requester will be advised of his optional right to seek declassification of the record by the Interagency Classification Review Committee in lieu of immediate judicial review.

[40 FR 7901, Feb. 24, 1975; 40 FR 17841, Apr. 23, 1975]

PART 806b—AIR FORCE PRIVACY ACT PROGRAM

Sec.

806b.0 Purpose.

Subpart A—General Information

806b.1 Air Force policy.
806b.2 Terms explained.
806b.3 Air Force supplements.
806b.4 Responsibilities assigned.
806b.5 Delegation of authority.
806b.6 Judicial sanctions.

Subpart B—Collecting Personal Information

806b.7 Collecting from the individual.
806b.8 Privacy Act statements.
806b.9 Promises of confidentiality when collecting information about individuals from third parties.

Subpart C—Maintaining Information in Systems of Records

806b.10 Air Force standards.
806b.11 Protecting records.
806b.12 Public notice and reporting requirements
806b.13 Evaluating systems of records.

Subpart D—Disclosing Information from Systems of Records

806b.14 Disclosures to the subjects of records.
806b.15 Disclosures to third parties and organizations.

Subpart E—Exempting Systems of Records

806b.16 General and specific exemptions.
806b.17 General exemptions.
806b.18 Specific exemptions.

Subpart F—Other Administrative Actions

806b.19 Training.
806b.20 Annual Privacy Act Report, RCS: DD-A(A&AR) 1379.
806b.21 Systems notice requirements.
806b.22 General and specific exemptions claimed.

AUTHORITY: 5 U.S.C. 552a, Pub. L. 93-579, Dec. 31, 1974, 88 Stat. 1897, and amended by Pub. L. 94-183, Dec. 31, 1975, 89 Stat. 1057.

SOURCE: 44 FR 23068, Apr. 18, 1979, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation 12-35, April 11, 1979.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 806b.0 Purpose.

This part explains policies and outlines procedures that govern collecting personal information and safeguarding, maintaining, using, accessing, amending, and disseminating personal information kept by the Department of the Air Force in systems of records. It implements 5 U.S.C. 552a, Pub. L. 93-579 and DOD Directive 5400.11, August 4, 1975. It is published in Title 32 CFR 806b and applies to all Air Force activities, including the Reserve Components, except for the office of the Chief, National Guard Bureau; Air National Guard technicians; and Army-Air Force Exchange Service activities, including Motion Picture Service Activities. It does not apply to civilian employee records which are maintained by Air Force activities and are covered under the Civil Service Government-wide systems of records, reprinted in AFP 12-36, Part Three. Such records are subject to Parts 293, 294, and 297 of Civil Service Commission regulations and the Federal Personnel Manual and Air Force Supplements. In case of a conflict, this part takes precedence over any existing Air

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Force directive that deals with the personal privacy and rights of individuals regarding their personal records, except for disclosures of personal information required by the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended by Pub. L. 93-502 and implemented by AFR 12-30.

Subpart A—General Information

§ 806b.1 Air Force policy.

It is Air Force policy to:

(a) Protect the privacy of individuals from unwarranted invasion as required by the Privacy Act of 1974.

Individuals covered by this protection are living citizens of the United States or aliens lawfully admitted for permanent residence. A legal guardian or parent has the same rights as, and may act on behalf of, a minor. (A member of the Armed Forces is not a minor for the purposes of this part.)

(b) Collect, keep, and use only that personal information needed to support Air Force operations and programs as authorized by law or Executive Order. Disclose this information only as authorized by the Privacy Act of 1974 and this part.

(c) Keep only that personal information that is timely, accurate, complete, and relevant to the purpose for which it was collected.

(d) Safeguard personal information to prevent unauthorized use, disclosure, alteration, or destruction.

(e) Let individuals know what records the Air Force is keeping on them, and to let them review or get copies of these records, subject to exemption procedures authorized by law and published in this part.

(f) Let individuals amend records about themselves that they can prove are in error, or are untimely, incomplete, or irrelevant.

(g) Let individuals ask for an administrative review of decisions that deny them access to, or do not let them amend, their records.

(h) Keep personal information only for as long as it is needed to protect the rights of the citizen and the Government, and to provide for the administrative needs of the Air Force.

§ 806b.2 Terms explained.

Terms, and their meanings, used in this part are:

(a) *Access.* Reviewing or obtaining copies by individuals of their own records that are part of a system of records.

(b) *Agency.* For purposes of disclosing records subject to § 806b.15, the Department of Defense is an agency as defined by the Privacy Act. For all other purposes, including applications for access and amendment, appeals from denials, exempting systems of records, etc., the Department of the Air Force is an agency.

(c) *Confidential source.* Any individual or organization that has given information to the Federal Government under:

(1) An express promise that the identity of the source would be withheld, or

(2) An implied promise to withhold the identity of the source made before September 27, 1975.

(d) *Confidentiality.* An explicit promise to withhold the identity of a source. For a promise of confidentiality to be effective, the information furnished must be put into a system of records that is authorized for an exemption under the Privacy Act and for which the Secretary of the Air Force has claimed an exemption.

(e) *Disclosure.* Giving information about an individual, by any means, to an organization or to an individual who is not the subject of the record. In the context of the Privacy Act and this part, this term only applies to personal information that is part of a system of records.

(f) *Individual.* A living citizen of the United States or an alien admitted for permanent residence. The Privacy Act rights of an individual may be exercised by the legal guardian of an incompetent, or by the parent of a minor.

NOTE: The Privacy Act confers no rights on deceased persons, nor may their next of kin exercise any rights for them.

(g) *Maintain.* Includes "hold," "collect," "use," "control," or "disseminate."

(h) *Minor.* Any individual under the age of majority as determined by state

law that governs the location of the facility where the records are kept. If there is no prevailing state law (for example, overseas), a minor is any individual under 18 years of age.

(i) *Official Use.* Any action by a member or employee of the Department of Defense which is prescribed or authorized by a regulation, and is intended to complete a mission or function of the department.

(j) *Personal Information.* Any item of information about a person that is not a matter of public record and is usually considered to be personal to the individual. It includes, for example, information about the individual's financial, family, social, and recreational affairs; his or her medical, educational (except military training), employment, political, or criminal history; or information that identifies, describes, or gives a basis for inferring personal characteristics, such as voice or fingerprints.

(k) *Privacy Act Request.* A request from an individual for information about the existence of, or for access to or amendment of, a record about him or her that is in a system of records. The request must cite or indicate a knowledge of the existence of the Privacy Act of 1974.

(l) *Record.* Any item, collection, or grouping of information about an individual that is kept by the Government.

(m) *Routine Use.* Any use or disclosure of information from a system of records that has been listed in a published systems notice and that is consistent with the purpose for which the information was collected.

(n) *System Manager.* The official responsible for the policies and procedures for operating a system of records. The local systems manager operates and has immediate contact with the system.

(o) *Statistical Record.* A record kept for statistical or reporting purposes which is not used by making judgments about individuals. The identity of specific persons must not be discoverable using usual statistical or data manipulation methods.

(p) *System of Records.* Any group of records from which personal information is retrieved by the name of an individual or by some personal identifier, such as the individual's Social Security Number (SSN). If such retrieval is possible but not actually done, the group does not constitute a system of records. Likewise, if retrieval depends on the operator's memory, no system of records exists. However, the creation of a retrieval index, arranged by personal identifier for a system that is filed at random, makes that system a system of records. Notices for all systems must be published in the FEDERAL REGISTER and no system may be operated or maintained until this is done.

(q) *Workday or Day.* An official duty day, not including Saturdays, Sundays, and official Federal holidays.

§ 806b.3 Air Force supplements.

Commands will not change, through supplements or other publications, the policies and procedures set by this part. Send copies of each major command (MAJCOM) or separate operating agency (SOA) publication that implements this part to HQ USAF/DAAD(S), Wash DC 20330.

§ 806b.4 Responsibilities assigned.

(a) The Administrative Assistant to the Secretary of the Air Force (SAF/AA) has overall responsibility for the Privacy Act within the Air Force and is the final decision authority on all appeals.

(b) The Director of Administration, HQ USAF, manages and administers the program through the Air Force Privacy Act Office, HQ USAF/DAAD(S).

(c) HQ USAF Deputy Chiefs of Staff (DCS) (and comparable officials) and SAF offices make sure that their deputates or offices comply with this part and name a Privacy Act Officer to assume the responsibilities in paragraph (g) of this section.

(d) MAJCOM and SOA Commanders implement this part within their commands and ensure compliance with its requirements.

(e) MAJCOM and SOA Directors of Administration monitor and administer the command-wide program. They may give these responsibilities to another staff function, if HQ USAF/DA approves. They name a command Pri-

vacy Act Officer within the Documentation staff function, and a Privacy Officer at each installation or tenant unit. They send the name, grade or rank, and telephone number of the current command Privacy Act Officer to HQ USAF/DAAD(S). Privacy Act monitors may be appointed at subordinate organizations and staff elements, if required.

(f) Command Privacy Act Officers:

(1) Serve as the primary point of contact within the command on all Privacy Act matters.

(2) Make sure that appropriate command personnel are trained or oriented in the provisions of the Act.

(3) Develop the command supplement to this part, if required.

(4) Gather material for the annual report and record system notices for HQ USAF/DAAD(S).

(g) Local Privacy Officers:

(1) Act as liaison between the command Privacy Act Officer and individuals who are responsible for operating systems of records.

(2) Implement, administer, and monitor the Privacy Act program within their areas of jurisdiction.

(3) Make sure that personnel are trained or oriented in the provisions of the Act.

(4) Compile material for the annual report, and records system notices for the command Privacy Act Officer.

(h) Record system managers may serve at any level in the Air Force. They determine the content and set rules for operating the system. System managers are responsible for sending public notices for proposed new or changed systems of records to the local Privacy Officer and for evaluating the systems each year, as required by § 806b.13. In many cases, record system managers also operate the system as the local system manager.

(i) Local records system managers or custodians answer requests for information from individuals, keep accountability records of disclosures, and send the Privacy Officer data needed for the annual report.

§ 806b.5 Delegation of authority.

(a) *Access authorities.* (1) The person named or position listed in the record system notice published in the FEDERAL REGISTER, either as the one to whom the request is to be sent or as the system manager.

(2) Reports of the Air Force Office of Special Investigations (AFOSI) released under rules in Part 952. Reports on investigations that are not complete and on which no final action has been made, are released by the commander of the organization that requests the investigation. Reports on completed investigations may only be released by HQ AFOSI.

(3) Inspector General complaint records, released only with the approval of HQ AFISC/IC.

(b) *Denial authorities.* The authority to deny access to, or to refuse to amend records must not be delegated to levels lower than those shown below, unless approved by SAF/AA. Send requests for waiver, with justification, to HQ USAF/DAAD(S), Wash DC 20330. Only the following officials, or their designees, have the authority to refuse to release or amend records:

(1) At SAF or HQ USAF, Deputy Chiefs of Staff and chiefs of comparable offices or higher level.

(2) At MAJCOM or SOAs, Commanders.

(3) For personnel records on civilian employees, Chief, Office of Civilian Personnel Operations (OCPO/MPK), Randolph AFB, TX 78148.

(4) For OSI investigative records, Commander, AFOSI, HQ AFOSI, Wash DC 20314.

NOTE: The officials named above may designate one alternate denial authority. Send a copy of the letter of appointment to HQ USAF/DAAD(S), Wash DC 20330.

(c) *Authority to request law enforcement records.* The Commander, AFOSI; the Chief, Air Force Office of Security Police; Base Chiefs of Security Police; and AFOSI District Commanders and their designees are authorized to ask for records from any source for law enforcement activities under 5 U.S.C. 552a(b)(7). These requests must be in writing and indicate the particular part of the record desired and the law enforcement activity that is asking for the record.

§ 806b.6 Judicial sanctions.

The Privacy Act has both civil remedies and criminal penalties for violations of its provisions.

(a) *Civil remedies.* An individual may file a civil suit against the Air Force, if Air Force personnel fail to comply with the Privacy Act.

(b) *Criminal penalties.* A member or employee of the Air Force may be found guilty of a misdemeanor and fined not more than $5,000 for willfully:

(1) Maintaining a system of records without first meeting the public notice requirements. (See § 806b.12.)

(2) Disclosing individually identifiable information to one not entitled to have it.

(3) Asking for and getting another's record under false pretenses.

Subpart B—Collecting Personal Information

§ 806b.7 Collecting from the individual.

Collect personal information, as much as possible, directly from the individual. Do not collect this information from third parties unless:

(a) The accuracy of information supplied by an individual must be verified with a third party.

(b) The information can only be obtained from a third party, such as information about how an employee performed in an earlier job or assignment.

(c) Getting the information from the individual would present exceptional difficulties or would result in an unreasonable cost.

(d) Other compelling and unusual circumstances make third party involvement necessary.

§ 806b.8 Privacy Act statements.

If the information asked for would be releasable under the FOIA, there is no requirement to give the person a Privacy Act Statement (some examples of this kind of information are name, grade, organization, duty assignment, and official telephone number). In all other cases, give individuals who are asked for information about themselves a Privacy Act Statement. This must be done regardless of how you collect or record the information, whether you use a form in the usual sense (that is, a printed document with a control number and edition date) or a blank page. You may advise individuals orally or display a sign in areas where they are frequently required to supply the same type of information; however, printed copies must be available and given to the individual on request. A Privacy Act Statement, whether given orally or placed on a form, must include:

(a) The number of the statute or executive order that authorizes collecting the information.

(b) The principal purposes for which the information will be used (for example, why the information is requested).

(c) The routine uses to be made of the information (for example, how the information is going to be used).

(d) Whether furnishing the information is mandatory or voluntary. Responding is mandatory, only if the information is essential to the Air Force mission, and if failure to furnish it could make the person liable to some administrative or disciplinary action.

(e) What will happen to the individual, if he or she does not give all or any part of the information requested.

NOTE: If you ask an individual for his or her SSN, you must state whether disclosure is voluntary or mandatory, give the statute or authority for requesting it, and state how it will be used.

(1) An individual may not be denied any right, benefit, or privilege provided by law for refusing to give his or her SSN unless disclosure:

(i) Is required by Federal statutes; or

(ii) Was required under statute or regulation adopted before January 1, 1975 for a system of records operating before that date.

NOTE: Executive Order 9397, November 22, 1943, authorizes the use of the SSN as a system of numerical identification of individuals.

(2) The fact that disclosure of the SSN is not required by Federal statute or is not for a system of records operating before January 1, 1975, does not preclude Air Force officials from asking for it. However, the Privacy Act Statement must make clear that disclosure of the SSN is voluntary. If the

individual refuses to disclose it, be prepared to use other means for identification.

NOTE: The Forms Management office provides information on preparing and processing forms that should have Privacy Act Statements. The Publications Management office ensures that a Privacy Act warning statement is in the preamble of each regulation that calls for collecting personal information.

§ 806b.9 Promises of confidentiality when collecting information about individuals from third parties.

Give these promises rarely, and only for information that could not be obtained by other means. These promises can only be given for information that is put in an exempt system of records (see Subpart E). In order to exempt information under subsections (k)(2), (k)(5), and (k)(7) of the Privacy Act, sources must be given an express promise that their identities will not be revealed.

Subpart C—Maintaining Information in Systems of Records

§ 806b.10 Air Force standards.

The Air Force must maintain information on individuals with such accuracy, relevancy, timeliness, and completeness as is reasonably necessary to make sure that determinations about them are made fairly.

(a) No record in a system of records will be kept unless it is authorized by statute or by Executive Order and is directed by an Air Force regulation.

(b) No record in a system of records will be kept unless it is relevant and necessary to carry out the mission or a function of the Air Force.

(c) No record will be kept that describes how an individual exercises any right guaranteed by the First Amendment to the Constitution unless expressly authorized by statute, by the individual concerned, or unless authorized for a law enforcement purpose.

(d) No system of records or revised system of records will be operated until the requirements for public notice and report to the Office of Management and Budget have been met. (See § 806b.12.)

(e) An activity must not issue a Request for Proposal or an Invitation to Bid for computer or communications systems and services to support a new or altered system of records until the requirement for a report to the Office of Management and Budget has been met. (See § 806b.12.)

(f) No record from a system of records will be released except according to Subpart D.

§ 806b.11 Protecting records.

Any activity that operates a system of records must set rules of conduct, operating procedures, and physical safeguards to keep the records safe from unauthorized disclosure. The level of protection should be in line with the level of sensitivity of the information.

(a) *Disposition of Records.* Dispose of records that have personal data and are eligible for disposal (as directed by AFM 12-50, Disposition of Air Force Documentation) by tearing into pieces, shredding, pulping, macerating, or burning.

(1) Dispose of magnetic tapes or other magnetic medium by degaussing or erasing.

(2) Activities may dispose of computer cards and printouts in a volume of 5 cubic feet or more without removing information subject to the Privacy Act from the records. This amount is sufficient to make sure that any one item of information becomes lost in the accumulated whole. It is not a disclosure under the Privacy Act. The carbon paper associated with these products may be disposed of through normal waste disposal methods. Systems managers may ask for a waiver of the required volume from command Privacy Act Officers. Systems Managers must give substantial reasons to justify any reduction. Command Privacy Act Officers review the request in consultation with the Staff Judge Advocate. If there is disagreement, the request may be sent to HQ USAF/DAAD(S) for a final determination.

(b) *Safeguarding personal Information in ADP Systems.* See AFR 300-13, Safeguarding Personal Data in Automatic Data Processing Systems.

§ 806b.12 Public notice and reporting requirements.

The Privacy Act requires that a report on all new or altered systems of records be published for public inspection. In addition, the Office of Management and Budget (OMB) requires a report on new systems and certain kinds of altered systems. Instructions on how to prepare both the OMB report and the systems notice are in § 806b.21. New systems notices, changes to current systems notices, and the OMB report, if required, must reach HQ USAF/DAAD(S), Wash DC 20330 at least 90 days before the date an activity will begin to operate a new system, change an existing system, issue any data collection forms or instructions, or issue a request for proposal or invitation to bid for computer or communications systems or services to support the new or altered systems.

(a) A new system of records is one for which no notice has been published in the FEDERAL REGISTER. It requires both a systems notice and an OMB report.

(b) An altered system of records, requiring both an OMB report and a systems notice, is one that:

(1) Significantly increases the number or changes the types of individuals on whom records are kept.

(2) Expands the categories of information. For example, a system that has physical training records is expanded to include medical records.

(3) Alters the way in which records are organized or in which they are indexed or retrieved so as to change the nature or scope of the records. For example, combining two or more existing systems as a result of centralizing a unit's responsibilities is an alteration.

(4) Alters the purpose for which the information is used.

(5) Alters the computer environment (for example, equipment configuration, software, or procedures) so as to create the possibility for greater or easier access (for example, adding a remote terminal at an office that did not previously have access to a system).

(c) An altered system of records that requires an amended systems notice but not an OMB report, is one that:

(1) Alters or adds routine uses within the scope of the original purpose for which the information was collected.

(2) Decreases the number of persons on whom records are kept.

(3) Adds a new data element clearly within the scope of the existing categories, or decreases the number of categories.

(d) A systems manager who decides a system of records must be exempted from some or all of the requirements of the Privacy Act must send a letter through the command Privacy Act officer to HQ USAF/DAAD(S) Wash DC 20330, giving specific reasons. This request must be processed by the Air Force Privacy Act Office for Secretarial approval (See Subpart F).

§ 806b.13 Evaluating systems of records.

Each system manager must evaluate the system of records and each category of information in the system at least once a year to make sure they are still relevant and necessary. Send any amendments or deletions as prescribed in § 806b.12. Take into consideration:

(a) How the system and each item of information in it relate to the program it supports and to the statutory purpose of the program.

(b) What the specific adverse consequences of dropping the system or any item of information in it would be.

(c) The possibility of meeting information requirements by using other than personal data.

(d) The possibility of early purging of any item of information.

(e) The cost of running the system as it is, in relation to the result of discontinuing it.

Subpart D—Disclosing Information from Systems of Records

§ 806b.14 Disclosures to the subjects of records.

Individuals may ask whether the Air Force is maintaining records about them. If such records exist within systems of records, the Privacy Act gives the individual a right of access to the record, and a right to request its amendment.

(a) *How to identify a Privacy Act request.* To be considered under the Privacy Act, a request must:

(1) Come from a person whose records are in the system, or who is a designated agent or legal guardian. The request can be either oral or written.

(2) Cite the Privacy Act or at least show an awareness of the Act's requirements. For example, it could be addressed to the Privacy Act Officer, system manager, or FOIA manager, even if it does not cite the Act in the text of the request. Because people sometimes confuse the Privacy Act and FOIA, a request that cites or implies FOIA will be treated as a Privacy Act request, if it meets all the other criteria in this section.

(3) Pertain to records that are in a system of records. If the records the person wants are not in a system of records, the request falls into a category other than Privacy. The request does not have to name the system, but it should be fairly specific. Do not accept blanket requests for "all records about me." Instead, refer the person to AFP 12-37, Access Guide for Making Freedom of Information Act and Privacy Act Requests, and ask for more details.

(b) *How to identify a functional request.* Other Air Force directives give individuals the right to have access to their records. If an individual asks for his or her records and does not cite, or reasonably imply, the Privacy Act or FOIA, and another prescribing directive authorizes the release of the records, use that directive as authority for the release. Apply the schedule of fees in Part 813. Do not count the request as a Privacy Act request. An example is when an officer asks a personnel clerk for a copy of his or her Officer Effectiveness Report (OER). If the officer does not cite Privacy Act or FOIA, the clerk may give him or her the record under AFR 36-10, Officer Evaluations, and charge according to Part 813.

(c) *How to process a Privacy Act request for existence or access that cites Privacy Act, FOIA, or both.* Regardless of whether a person cites or implies the Privacy Act or the FOIA, process the request so as to give the most information possible. This may mean processing part of the request under one Act and part under another.

(1) *Verifying identity.* When local systems managers receive a request for information about the existence of, or for access to, records, they must verify the requester's identity, unless the record sought is available to anyone under the FOIA. The person does not have to state a reason for the request, nor can the request be denied, if the person does not give his or her SSN, unless disclosure of the SSN is required by Federal Statute or by a regulation adopted before January 1, 1975.

(2) *Notify the requester.* Once the requester's identity is assured, the local system manager or custodian should:

(i) Within 10 working days from the date the request was received, tell the person if the system of records has a record about him or her, and when and where it may be reviewed.

(ii) Within 30 working days from the date the request was received, let the person review the record, or obtain a copy, unless it is exempt and listed in § 806b.22.

(*a*) If the requester wants to bring another person, the local manager may ask for written authorization for the other person to be present during any discussion of the content of the record.

(*b*) There is no requirement to create a record to fulfill a request; the record must be in existence at the time of the request. However, do not deny a record just because it is not readily available in a convenient format. Information in a system of records on magnetic or computer tape should be given in a format the requester can read.

(3) *Assessing fees.* When providing documents under the Privacy Act, charge fees for reproduction only.

(i) Use the following fee schedule:

Office copy (per page)	10
Microform media (paper copy) (per image)	25
Microfiche (per fiche)	95

(ii) Do not charge fees for:

(*a*) Performing record searches.

(*b*) Reproducing a document for the convenience of the Air Force.

(c) Reproducing a record only in order to let a requester review it. If he or she wants a personal copy, use the fee in paragraph (c)(3)(i) of this section.

(d) Reproducing a record for a requester who shows that he or she cannot pay the allowable charge.

(iii) Waive the fee, if the total amount is less than $5.

(4) *Denying access.* If the local systems manager decides the record should not be released, he or she sends a copy of the request, a copy of the record (or records), and the reasons for recommending denial, including the exemption being applied, to the Denial Authority, through the command Privacy Act Officer. This must be done within 5 workdays from the date the request was received.

(i) *Evaluation of record.* No record may be withheld just because it is in an exempt system. Before recommending denial, the local manager must:

(a) Make sure the system is covered by an exemption approved by the Secretary of the Air Force and listed in § 806b.22.

(b) Make sure that each document is, in fact, covered by the exemption, since all documents in a system are not automatically exempt.

(c) Determine that no part of the record could be released, either by careful editing or in the form of a summary. If a record has both releasable and exempt material, the releasable part must be separated and made available.

(ii) *Medical records.* If, in the judgment of a physician, releasing a medical record to the subject could harm the subject's mental or physical health, the system manager may require the requester to name a physician to receive the record. This is a denial of the record, only if the subject refuses to name a physician.

(iii) *Third party information.* A record with personal information about someone else can be released after the third party information has been taken out. If the information is releasable under the FOIA, it is not deleted. If the record is one to which the requester has already had access, such an order or effectiveness report, it is released intact. In all other cases, personal information such as home addresses and SSNs of others should be deleted. If there is information in the record, the disclosure of which would be a clearly unwarranted invasion of someone else's privacy, that information should be withheld.

(iv) *Information compiled for litigation.* Information in a system of records compiled in reasonable anticipation of a civil action or proceeding may be denied. The requester should be informed of his or her right to appeal this denial.

(v) *Denial Authority action.* (a) The Command Privacy Officer reviews the denial recommendation and consults with the servicing Staff Judge Advocate and the office responsible for the program under which the record was created. He or she makes a recommendation to the Denial Authority, consistent with the results of this review.

(b) The Denial Authority, after examining the case, notifies the requester whether or not access will be granted. If the Denial Authority decides to grant access, he or she instructs the local systems manager to release the record. If the Denial Authority denies access, he or she must tell the requester why, and that the decision may be appealed to the Secretary of the Air Force within 45 days after the denial letter is received. The requester will be told to resubmit the original request and send any supporting material back to the Denial Authority for forwarding to HQ USAF/DA, Wash DC 20330. The requester should be cautioned that failure to follow this procedure may delay the appeal.

(d) *How to process a request for amendment.* Individuals may ask the Air Force to amend records about them that are in a system of records. The amendment sought must change, delete, or add material to make a record factually accurate, timely, relevant, or complete. A request that asks for an amendment of information that is subjective, or involves a matter of opinion or interpretation, is not processed under this part. It is sent back, and the person told to send it to the Air Force Board for the Correction of Military Records under Part 865, Subpart A of this chapter, under grievance procedures in AFR 40-771,

Appeal and Grievance Procedures, or any other appropriate directive.

(1) Requests to amend may be made orally or in writing. But, only requests asking for minor corrections are accepted orally. In either case, the local systems manager verifies the identity of the person seeking the amendment.

(2) Local systems managers routinely correct any record, if the requester can conclusively show it is factually in error, or if no lawful purpose would be served by not correcting the record. In these cases, the manager makes the change, notifies all holders of the record, and informs the individual when the correction is made.

(3) If the manager decides not to amend the record, he or she sends a copy of the record, the reasons for denial, and the request to the Denial Authority through the command Privacy Act Officer. The Command Privacy Act Officer reviews the denial recommendation and consults with the servicing Staff Judge Advocate and the office responsible for the program under which the record was created. He or she makes a recommendation to the Denial Authority based on the results of this review. A Denial Authority who decides to support, or partially support denial, sends the requester a letter stating why the request was denied and how to appeal the decision. If a review does not support denial, the system manager must be told to amend the record and notify all subsequent recipients of the change.

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TABLE 1

PRIVACY ACT REQUEST PROCESSING

RULE	A If requester cites or implies (see note 1)	B and asks for	C which are	D then process as a
1	Freedom of Information Act (FOIA)	his or her own records	in a system of records	Privacy Act (PA) request under AFR 12-35 (see note 2).
			not in a system of records	FOIA request under AFR 12-30
		someone else's records	filed anywhere	
2	Privacy Act (PA)	his or her records	in a system of records	PA request under AFR 12-35 (see note 2).
			not in a system of records	FOIA request under AFR 12-30
		someone else's records	filed anywhere	
3	neither Act	his or her own records	in a system of records	Functional request. If a regulation provides access, use its procedures. Otherwise, use AFR 12-35
			not in a systems of records	Functional request. If a regulation gives access use its procedures. If the functional regulation would deny access, see AFR 12-30.
		someone else's records	filed anywhere	
4	both acts	his or her own record	in a system of of records	PA request under AFR 12-35 (see note 2) or FOIA request under AFR 12-30 or both, whichever gives most information.
			not in a system of records	
		someone else's record	filed anywhere	FOIA request under AFR 12-30

NOTES: 1. Request for information from subject of an AFOSI investigation should be processed under AFR 12-30.

2. Report as Privacy Act Request in Annual Report

(e) *Time limits.* Requesters should be told what action will be taken on their request within 10 workdays from the date the first Air Force office receives it. If access is granted or a record is amended, that should usually be done within 30 workdays. Table 2 gives time limits for the persons responsible for these actions. If the 10-day time limit cannot be met, the requester should be sent a letter telling why a delay is needed and giving an approximate response date. That date should be no more than 20 workdays after the first Air Force office receives the request. Send a copy of this letter to HQ USAF/DAAD(S), Wash DC 20330, through Privacy Act channels.

TABLE 2

TIME LIMITS FOR PROCESSING PRIVACY ACT REQUESTS

RULE	A	B	C
E	If you	and you are	then the time limit is
1	transfer action to another systems manager	Any recipient	2 workdays from receipt.
2	transfer action to Denial Authority	local Systems manager	5 workdays from receipt.
3	acknowledge request and tell requester if record exists		10 workdays*.
4	acknowledge request and tell requester access will be granted	local Systems Manager, or Denial Authority	10 workdays*.
5	acknowledge request and tell requester amendment will be made		
6	Tell requester that access is denied	Denial Authority	
7	tell requester that amendment is denied		
8	grant access or amend record	local System Manager	30 workdays*.

NOTE: Time limits for granting access are recommended only; time limits for amending are required by the Privacy Act.

*From initial receipt by an Air Force activity.

BEST DOCUMENT AVAILABLE

(f) *Appeals of initial refusals to grant access or to amend records.* (1) *Request for secretarial review.* An individual may request a review of the initial refusal by writing to the Secretary of the Air Force within 45 days of the denial. The request should be addressed to the Secretary of the Air Force (SAF/AA), Wash DC 20330 and sent back to the initial Denial Authority for forwarding to HQ USAF/DA, Wash DC 20330. The Denial Authority sends a complete file in the following order:

(i) The request for review.

(ii) The initial request for access or amendment.

(iii) The initial refusal.

(iv) A copy of the record or portions involved.

(v) Any internal records or coordination actions that relate to the initial refusals.

(vi) Denial Authority comments on the appellant's arguments.

(2) *Responsibilities for Review.* (i) The Air Force Privacy Board reviews the initial denial and makes recommendations to the Vice Chief of Staff (CV). Members of the Board are representatives from HQ USAF/DA (Chairperson), the Office of The Judge Advocate General (HQ USAF/JA), and an Air Staff function not having primary responsibility for the record in question. The Chairperson may also call upon subject matter experts to advise the Board. CV may designate another official to serve as chairperson or, if the record is the primary responsibility of HQ USAF/DA or HQ USAF/JA, may choose a member from another Air Staff organization to sit on the Board instead.

(ii) The Office of the CV considers the recommendations of the Board and decides whether to direct the initial Denial Authority to grant access to or amend the record, or to uphold the denial. If the decision is to uphold, this recommendation is passed to SAF/AA through SAF/GC for a final decision.

(iii) SAF/AA considers HQ USAF/CV recommendations to uphold a denial, decides to grant or deny the appeal, and notifies both the individual and the initial Denial Authority of the decision. If SAF/AA upholds the denial, the individual is advised of his or her right to send a statement of disagreement to the system manager.

(3) *Time limits for appeal.* Table 3 shows the necessary actions and time limits for each part of the appeal process.

TABLE 3

APPEAL PROCESSING

RULE	A	B	C	D
	If	Decides to	then	within
1	AF Privacy Board	uphold denial OR overrule denial of access OR overrule denial of amendment	Pass to HQ USAF/CV with recommendations	15 work days.*
2	HQ USAF/CV	uphold denial	pass to SAF/AA through SAF/GC with recommendations	30 work days*.
		overrule denial of access OR overrule denial of amendment	Notify the Individual and instruct Denial Authority to have access granted or record amended	
3	SAF/AA	uphold denial of access	notify the individual, giving reasons with copy to Denial Authority	45 work days*.
		uphold denial of amendment	Notify individual giving reasons. Invite individual to file statement of disagreement with systems manager stating any reasons for disagreeing with the Air Force's decision. Tell individual that statement will become permanent part of record, shown to all subsequent users and sent to prior recipients.	
		overrule denial of access	Notify individual. Instruct Denial Authority to have access granted or record amended	
4		overrule denial of amendment		

*Time from receipt of appeal by HQ USAF/DA.

BEST DOCUMENT AVAILABLE

(g) *Statements of disagreement.* If an individual submits a statement of disagreement with the Secretary of the Air Force's decision not to amend his or her record, the local system manager:

(1) Flags the record so that the disagreement may be seen by anyone who discloses or gains access to the record.

(2) Files the statement with the record. If this is not possible, maintain it to allow ready retrieval when the disputed portion of the record is used.

(3) Advises previous recipients that the record has been disputed and gives them a copy of the disagreement statement, if they can be identified.

(4) Lets subsequent users know that the record is disputed and gives them a copy of the statement along with the record. The manager may include a brief summary of the reasons for not amending the record. Summaries are limited to the reasons SAF/AA gives to the individual. The summary is treated as a part of the individual's record, but is not subject to the amendment procedures.

(h) *Privacy Act case files.* Except for the statement of disagreement, do not file documents used in processing notification, access and amendment requests (including appeals) in or with the system of records to which they pertain. Instead, set up Privacy Act case files. These files should include requests from, and replies to, individuals on whether a system has a record about them; requests for access, approvals, refusals, appeals, and final review action; and coordination actions and related papers. Do not keep a copy of the disputed record in the case file. Use the file solely to process requests and as a source of statistics. Do not use it as a source of precedents for processing similar actions. Do not use it to make any other kind of determination about the individual. Set up Privacy Act case files at each office that processes a request.

§ 806b.15 Disclosures to third parties and organizations.

The fact that the Air Force lets an individual know why we are collecting the information and how it will be used does not mean we have his or her consent to release it. Thus, when we decide to release information as authorized below, we must first consider all the consequences of that disclosure. Before we release any information, we must make a reasonable effort to ensure that it is accurate.

(a) *With subject's consent.* Unless prohibited by other statutes or directives, we may disclose information from a system of records if the subject of the record writes and asks us to, or if he or she has given prior written consent by signing a release form. For example, medical information could be released to an insurance firm with the subject's written authorization. Make sure, however, that there is no statute or directive that prohibits release. For example, drug or alcohol abuse treatment information kept in connection with a drug or alcohol prevention function may be released only as authorized by 21 U.S.C. 1175 and 42 U.S.C. 4582. For this information to be released, the subject's specific consent is needed; general consent is not enough.

(b) *Without subject's consent.* A person's records may be disclosed without his or her consent to:

(1) Department of Defense officials and employees who need the record to perform their duties and who use it for the purpose for which we collected it.

(2) The public, as required by the FOIA. See Part 806 of this chapter.

(i) Some examples of information that can be released for military personnel without an unwarranted invasion of privacy are: name; rank; date of birth; marital status; name, age, number and sex of dependents; date of rank; gross pay; present and past duty assignments and future assignments which are firm; office and unit address and phone number; source of commission; military and civilian education level, including major area of study, school, year of graduation and degree; promotion sequence number; awards and decorations; duty status at any given time; official photograph; and home of record, without street address. See Federal Personnel Manual Supplement 990-1, Part 294, on release of civilian personnel information.

(ii) Disclosing a person's home address, SSN, or home telephone number without his or her consent is usually considered to be a clearly unwarranted invasion of privacy. Thus, disclosure under FOIA usually should not be made.

(iii) Apply a balancing test to decide whether disclosure would be a clearly unwarranted invasion of the individual's privacy. Weigh the individual's right to privacy versus the public's right to know. Consider the nature of the information to be disclosed; do individuals usually expect this information to be kept private? Are the identities of the subject and the recipient already in the public eye? What is likely to happen to the individual as a result of the disclosure? How old is the information; is it still relevant? To what degree is the information already in the public domain?

(iv) We may release information, if the balancing test described above weighs in favor of disclosure. For example, we may be permitted to disclose home addresses to a requester who wanted to enforce a court order for alimony or child support payments, or to local and state tax authorities to enforce tax laws.

(v) We may not sell or rent lists with individuals' names and home addresses. Likewise we may not, without individuals' consent, release lists of names and home addresses to the public. We must allow individuals to decide if they want their home addresses and phone numbers included in base directories.

(3) Agencies outside the Department of Defense for a routine use which has been listed in the systems notice describing the system of records and has been published in the FEDERAL REGISTER. The routine use must be compatible with the purpose for which the information was collected and must be within the expectations of the person when he or she furnished it.

(4) The Bureau of the Census to plan or carry out a census or survey under Title 13, U.S.C.

(5) A recipient for statistical research or reporting. The recipient must give us advance written assurance that the record will be used solely as a statistical research or reporting record. The record must not be used, in whole or part, to make any decisions about the individual's rights, benefits, or entitlements. It must be sent in a form in which the identity of the individual cannot be found out through usual research methods.

(6) The National Archives of the United States has a record with enough value to warrant keeping it, or for evaluation by the Administrator of the General Services Administration to see if the record has such value. However, when we send records to Federal Records Centers for storage, they stay under Air Force control. These transfers are not disclosures under this subpart and do not need an accounting.

(7) An agency outside the Department of Defense for a civil or criminal law enforcement activity authorized by law. The head of the agency or a designee must send a written request to the systems manager. The request must specify the record or part needed and the law enforcement purpose for which it is wanted. A record may also be disclosed to a law enforcement agency by the Air Force office that has it if criminal conduct is suspected. This disclosure is a routine use for all US Air Force records systems and has been published in the FEDERAL REGISTER.

(8) Another person or agency under compelling circumstances affecting the health or safety of an individual. The individual whose records are disclosed does not have to be the one in danger. For example, records on several persons could be disclosed to identify individuals injured in an accident. When individual records are disclosed in this way, we must send the subject a notification at the last known address.

(9) Either House of Congress, a congressional committee or subcommittee, for matters within their jurisdictions.

(10) A congessional office acting for a constituent who is the record subject. This disclosure is allowed by a blanket routine use.

(11) The Comptroller General or any authorized representatives on business of the General Accounting Office.

(12) A court of competent jurisdiction that has ordered us to do so.

When a record is disclosed under compulsory legal process and the court makes public the fact that it has issued an order or subpoena for the record, we must make reasonable efforts to notify the individual by mailing a disclosure statement to his or her last known address.

(13) A contractor who is operating a system of records under a contract to perform an Air Force function, such as personnel, payroll, or health systems management. In this case, the contractor is considered an employee of the Air Force and the system of records is considered an Air Force system. Disclosure of records to the contractor does not need the subject's consent nor does it require that an accounting be kept.

(c) *Accounting for disclosures.*

(1) For those disclosures for which an accounting is required, each local record system manager must keep an accurate record showing the date of the release, the specific information released, the basis for making the disclosure, and the name and address of the recipient (see table 4). Accounting is required, even if the subject gives written consent. Systems managers may file the disclosure accounting record in any way they want, as long as they can reconstruct it to:

(i) Give to the subject on request.

(ii) Pass corrected or disputed information in the record to previous recipients.

(iii) Provide a cross-reference to show the basis for making the disclosure.

(iv) Provide an audit trail for reviews of Air Force compliance with the conditions of disclosure outlined in this subpart.

(2) For some systems of records, subsections (j)(2) and (k) of the Privacy Act permit withholding the accounting record from the subject. § 806b.22 lists those systems. Also, an accounting of disclosures that were made for law enforcement purposes may be withheld.

(3) Dispose of the accounting record according to AFM 12-50.

99-112 O—82— 6

BEST DOCUMENT AVAILABLE

TABLE 4

DISCLOSURE ACCOUNTING AND CONSENT REQUIREMENTS

RULE	A If information from a system of records is disclosed to	B and pertains to	C then it is under the	D and requires an accounting	D and requires written consent
1	an individual	the individual	Privacy Act (note 1)	No	No
2	any DOD activity	info for official uses	Privacy Act		
3	any person or organization outside of DOD other than the subject	a published Routine Use in the Systems Notice		Yes	
4	anyone but the subject outside DOD	emergencies affecting health or safety			No (note 2)
5	The Congress	official uses			No
6	Bureau of the Census	census or survey or related activity			
7	The General Accounting Office	official uses			
8	The National Archives	info to be appraised or accepted for deposit			
9	A Court	an order of the court			No (note 3)
10	anyone but the subject	info releasable under Freedom of Information Act (FOIA)	FOIA	No	No
11	any US agency or instrumentality	civil or criminal law enforcement	Privacy Act	Yes	

NOTES:

1. When a request cites neither PA or FOIA but another Air Force directive authorizes the release of the information, then the release is under that directive.
2. Notify the individual at his or her last known address.
3. Notify the individual as soon as the compulsory legal process becomes a matter of public record at his or her last known address.

Subpart E—Exempting Systems of Records

§ 806b.16 General and specific exemptions.

(a) The Secretary of the Air Force may exempt Air Force systems of records from certain parts of the Privacy Act. There are two kinds of exemptions: general and specific. The general exemption relieves systems of records from most requirements of the Act; the specific exemption from only a few.

(b) The exemption index below shows for which parts of the Privacy Act exemptions may be claimed. "No" means that no exemption may be taken; "yes" means that an exemption may be taken. Note that the index provides a cross reference to this part.

EXEMPTIONS		Privacy Act Section	AFR 12-35 Paragraph
General 3(j)	Specific 3(k)		
no	no	3(b)(1–11): conditions of disclosure	15
no	no	3(c)(1, 2): making and keeping disclosure acctg	15
yes	yes	3(c)(3): individual access to accounting	15
yes	no	3(c)(4): informing prior recipients of corrections	14
yes	yes	3(d)(1–5): access to records	14
yes	yes	3(e)(1): restrictions on collection of info	1
yes	no	3(e)(2, 3): collecting from individual	7
no	no	3(e)(4)(A–F): publishing systems notices	12
yes	yes	3(e)(4)(G–I): system access & source descript	12, 14
yes	no	3(e)(5): standards of accuracy	10
no	no	3(e)(6, 7): validate before disclosure/no records on 1st Amendment rights	10, 15
yes	no	3(e)(8): notification of compulsory disclosure	15
no	no	3(e)(9–11): rules of conduct/safeguards/routine use publication	1, 11, 12
yes	yes	3(f)(1–5): agency rules	14
yes	no	3(g)(1–5): civil remedies	6
yes	no	3(h): rights of legal guardians	1
no	no	3(i)(1–3): criminal penalties	6
—	no	3(j)(1–2): general exemptions	17
yes	—	3(k)(1–7): specific exemptions	18
yes	no	3(l)(1–3): archival records	15
yes	no	3(m): Government contractors	15
yes	no	3(n): mailing lists	15
yes	no	3(o): report on new systems	10
yes	no	3(p): annual report	20
no	no	7(a, b): restrictions on using SSN	8

FIGURE 1. EXEMPTION INDEX AND CROSS REFERENCE.

[44 FR 23068, Apr. 18, 1979, as amended at 44 FR 26739, May 7, 1979]

§ 806b.17 General exemptions.

Only US Air Force activities actually engaged in law enforcement may claim the general exemption for a system of records. These include the Staff Judge Advocate and correctional activities. This exemption appears in the Privacy Act in subparagraph (j)(2).

(a) To qualify for the exemption, a system must consist of:

(1) Data, compiled to identify individual criminals and alleged criminals, which consists only of identifying data and arrest records; type and disposition of charges; sentencing, confinement, and release records; and parole and probation status;

(2) Data that supports criminal investigations (including efforts to prevent, reduce, or control crime) and reports of informants and investigators that identify an individual; or

(3) Reports on a person, compiled at any stage of the process of law enforcement, from arrest or indictment through release from supervision.

(b) When we claim a general exemption for a system of records, the only parts of the Privacy Act we are required to comply with are subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i). See figure 1.

§ 806b.18 Specific exemptions.

(a) The Secretary of the Air Force has exempted a few systems of records that have the following kinds of infor-

BEST DOCUMENT AVAILABLE

mation from certain parts of the Privacy Act. The Privacy Act exemption number appears in parentheses after each category below.

(1) Classified information in any Air Force system of records. Before denying a person access to classified information, the Denial Authority must make sure that it was properly classified under the criteria of Executive Order 11652 or 12065, and that it must remain so in the interest of national defense or foreign policy [(k)(1)].

(2) Investigatory data for law enforcement purposes (other than that claimed under the general exemption). But, if this information has been used to deny someone a right, we must release it unless doing so would reveal the identity of a confidential source [(k)(2)].

(3) Data kept to protect the President of the United States and others, as authorized by 18 U.S.C. 3056[(k)(3)].

(4) Statistical data required by statute and used only for statistical purposes and not to make decisions on the rights, benefits, or entitlements of persons [(k)(4)].

(5) Data compiled to determine suitability, eligibility, or qualifications for Federal service, Federal contracts, or access to classified information. We may withhold this information, only if disclosure would reveal the identity of a confidential source [(k)(5)].

(6) Tests to find out whether to appoint or promote a person in the Federal Service. We may withhold this information, only if disclosure would compromise the objectivity or fairness of the examination process [(k)(6)].

(7) Information to determine promotion potential in the Armed Forces. We may withhold this information, only to the extent that disclosure would reveal the identity of a confidential source [(k)(7)].

(b) We do not have to comply with the following parts of the Privacy Act in operating a system for which we claim a specific exemption: Subsections (c)(3); (d); (e)(1); (e)(4) (G), (H), and (I); and (f) (see figure 1).

Subpart F—Other Administrative Actions

§ 806b.19 Training.

There are three kinds of training:

(a) *Orientation.* Command and local Privacy Officers must make sure that everyone in their areas of responsibility gets an initial orientation on how the Act works and what are the individual's rights and responsibilities under it. In addition, they must regularly conduct refresher training through Commanders Calls, articles in base bulletins, papers, and so forth.

(b) *Specialized.* This training takes place at USAF technical schools. It is for personnel who actually operate systems of records, or supervise their operation. Training elements that develop new blocks of instruction or alter old blocks must send them to HQ USAF/DAAD (S) for review.

(c) *Management.* Command and local Privacy Officers give commanders and their deputies management training that supplements the basic orientation. This training lets top managers know how the Act affects their operational decisions. For example, managers need to know that they will not be able to operate a system of records until 45 days after it has been published in the FEDERAL REGISTER for public comment. Also, this training gives Denial Authorities the information they need to act in this capacity.

§ 806b.20 Annual Privacy Act Report, RCS: DD-A (A & AR) 1379.

(a) Each Command Privacy Act Officer must report the following statistical information to the Air Force Privacy Act Office no later than March 1 of each year. The Report Control Symbol is DD-A (A & AR) 1379. The report must cover the previous year's activity. Data should be given for each system of records. The data must include the number of:

(1) Requests for existence of records.

(2) Requests for access to records under the Act.

(3) Privacy Act requests returned for lack of sufficient information to identify the records.

(4) Requests for access totally granted and number partially granted.

(5) Requests for amendment of records under the Privacy Act.

(6) Requests for amendment totally granted and number partially granted.

(7) Exemptions used to deny access by citation number (j2, j5, k1-k7, and d5).

(b) Each Privacy Act Officer should also keep a record of any unusual problems that arise in the course of the year about the administration of the Act. Report these in narrative form.

(c) The Air Force Privacy Act Office provides statistical reporting forms and instructions no later than December 31 of each year.

§ 806b.21 Systems notice requirements.

Each system of records operated by the Air Force must be covered by a systems notice published in the FEDERAL REGISTER. You must send two copies of this notice, with a report of a new system, through the command Privacy Act Officer to HQ USAF/DADD (S) at least 90 days before operating the system. All items of information must be completed, and you should be as specific as possible. Use the following format:

HOW TO PREPARE SYSTEMS NOTICES AND REPORTS

F01101 MAC ("F" indicates Air Force, the number is the table and rule from AFM 12-50 for records disposition, and the letters show the command or DCS)

System name: (Use a short, specific plain language title for the system)

System location: (Address of primary system and any decentralized elements; if system is Air Force-wide, show functional office)

Categories of individuals covered by the system: (List categories, but be specific; do not say all Air Force officers when the system applies only to officers of one command)

Categories of records in the system: (List specific elements of information; do not list form numbers)

Authority for maintaining the system: (Cite specific statute from the US Code or Executive Order that directs the program the records support; do not use Title 44)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (Show the purpose of the system and all routine users who *are not* part of the Department of Defense (DOD). Give specific reasons for disclosure to agencies or persons outside of the DOD)

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: (Show how records are stored listing the storage medium and types of containers)

Retrievability: (List all data elements used for retrieval)

Safeguards: (Provide a specific list of safeguards by categories such as guards, alarmed buildings, safes; do not describe any specific safeguards in a way that would jeopardize security)

Retention and disposal (Show length of retention from AFM 12-50 using the table and rule listed in the System Identification)

System manager(s) and address: (List the title and office address of the individual or individuals responsible for the system)

Notification procedure: (Give the title and address of any individuals who can tell people if their records are in the system)

Record Access procedure: (Tell who to contact for access giving title and address)

Contesting record procedure: (Leave blank)

Record source categories: (Show categories of individuals or other records used as sources for the system)

System exempted from certain provisions of the Act: ("None" unless you have filed an exemption, in which case list the sections of the Privacy Act from which the system is exempt)

(a) *Report of a new or altered system of records.* The report of a new or altered system must be sent through the Defense Privacy Board to the Congress and Office of Management and Budget by the Air Force Privacy Act Office. Systems managers must provide HQ USAF/DAAD(S), no later than 90 days before using the system or implementing the reportable change:

(1) System identification number and title of the system.

(2) Reason for creating the new system or for changing an existing system.

(3) A description of the change.

(4) The estimated number of individuals on whom records are kept in the system.

(5) Methods used to ensure accuracy of information in the system.

(6) A discussion of alternatives to using the system.

(7) The name, title, address and AUTOVON number of the person who knows how the system operates.

A complete system notice must be attached.

(b) *Nonreportable amendments or deletions.* Any change in the published systems notice that does not require a report to the Congress or to Office of Management and Budget must be sent at once to the Air Force Privacy Act Office. The following changes must be published in the FEDERAL REGISTER for public comment and must be sent at least 75 days in advance:

(1) Those that change the nature of or add to the routine uses of the system.

(2) Those that change the notification or access procedures.

§ 806b.22 General and specific exemptions claimed.

(a) *General exemption for criminal investigative files:* The Air Force claims the general exemption for the following systems of records: Counter Intelligence Operations and Collection Records, F12408 07YLNGA; Criminal Records, F12410 07YLNGA; Incident Investigation Files, F12501 SPO I; Investigative Support Records, F12404 07YLNGA and F12407 OSI A, DoD Fraud Investigation Management Information Systems.

(b) *Specific exemptions.* These are the systems for which we claim specific exemptions:

(1) *Classified records.* All records in systems of records that are properly classified per Executive Order 11652 or 12065, are exempt from 5 U.S.C. 552a (c)(3); (d); (e)(4) (G), (H), and (I); and (f), regardless of whether the entire system is otherwise exempt.

(2) *Air Force Academy Candidate System (F05302 OBXQPCB).* (i) *Exemption.* This system of records (Candidate Evaluation Record, Liaison Officer Evaluation, Letter of Evaluation from High School or College, and Drug Abuse Certificate) is exempted from 5 U.S.C. 552a (d), (e)(4)(H), and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* Insure the frankness of information used to determine whether cadets are qualified for graduation and for commissioning as officers in the United States Air Force.

(3) *Air Force Personnel Test 851, Test Answer Cards (F03506 DPMAW A).* (i) *Exemption.* This system is exempt from 5 U.S.C. 552a (c)(3); (d); (e)(4) (G), (H), and (i); and (f).

(ii) *Authority.* 5 U.S.C. 552a(k)(6).

(iii) *Reasons.* To protect the integrity of the promotion testing system by keeping the test questions and answers safe.

(4) *Cadet Personnel Record System (F03502 OBXQPCB).* (i) *Exemption.* Parts of this system are exempt from 5 U.S.C. 552a (d), (e)(4)(H), and (f), but only insofar as disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To maintain the candor and integrity of comments needed to evaluate an Air Force Academy cadet for commissioning in the US Air Force.

(5) *Cadet Records (F04501 OKPNQSA).* (i) *Exemption.* Portions of this system (Detachment POC Selection Rating Sheets; AFROTC Form 0-24-Disenrollment Review; Memoranda for Record and Staff Papers with Staff Advice, Opinions, or Suggestions) are exempt from 5 U.S.C. 552a (c)(3); (d); (e)(4) (G), and (H), and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of a confidential source who furnished information necessary to make determinations about the qualification, eligibility, and suitability of cadets for graduation and commissioning in the US Air Force, under a promise of confidentiality.

(6) *Child Advocacy Case Files (F16802 SGPC A).* (i) *Exemption.* Parts of this system are exempt from 5 U.S.C. 552a(c) (3) and (d), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k) (2) and (5).

(iii) *Reasons.* To encourage those who know of child abuse or neglect to come forward by protecting their iden-

tities. Also, to protect the integrity of on-going and civil law investigations of criminal and civil law violations. Giving subjects access to their files could result in them concealing, altering, or fabricating evidence, could hamper the identification of offenders and alleged offenders; and could jeopardize the safety and well-being of parents and their children.

(7) *Civilian Personnel Occupational and Suitability Employment Examinations (F04002 DPCMS D).* (i) *Exemption.* Parts of this system are exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f).

(ii) *Authority.* 5 U.S.C. 552a(k) (5) and (6).

(iii) *Reasons.* To protect the confidentiality of a source who gives information about whether a person is qualified and suitable for civilian employment in the Federal service. Also, to protect test material used to determine qualifications so as to be fair to all candidates.

(8) *Class Committee Products (F01103XOBXQPCD).* (i) *Exemption.* Parts of this system are exempt from 5 U.S.C. 552a(d), (e)(4)(H), and (f), but only to the extent that they would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To maintain the candor and integrity of comments needed to evaluate an Air Force Academy cadet for commissioning in the US Air Force.

(9) *Effectiveness/Performance Reporting Systems (F03501 DPMVO 1).* (i) *Exemption.* The parts of this system that have completed AF Forms 705, Lieutenant Colonel Promotion Recommendation Report, and AF Forms 706, Colonel Promotion Recommendation Report, are exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To make sure that selection boards get candid evaluations of the potential of officers being considered for promotion to the grades of Colonel and Brigadier General.

(10) *Equal Opportunity in Off Base-Housing (F03005 PRENC A).* (i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f).

(ii) *Authority.* 5 U.S.C. 552a(k)(2).

(iii) *Reasons.* To enforce civil laws, court orders, and the activities of the Departments of Housing and Urban Development and Justice.

(11) *General Officer Personnel Data System (F03501 AFDPG O).* (i) *Exemption.* The parts of this system that have completed AF Forms 78, Air Force General Officer Effectiveness Report, are exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that they would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To make sure selection boards get candid evaluations of the potential officers being considered for promotion to Major General, Lieutenant General and General.

(12) *Historical Airman Promotion Master Test File (F03508 DPMAW M).* (i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f).

(ii) *Authority.* 5 U.S.C. 552a(k)(6).

(iii) *Reasons.* To protect the integrity, objectivity, and equity of the promotion testing system by keeping test questions and answers safe.

(13) *Inspector General Records (F12001 IGQ A).* (i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f). But, if a person is denied any right, privilege, or benefit he or she would otherwise be entitled to as a result of keeping this material, we must release the material unless doing so would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(2).

(iii) *Reasons.* Granting individuals access to information collected while an Inspector General inquiry is in progress could interfere with the just, thorough, and timely resolution of the complaint or inquiry and could possibly enable individuals to conceal wrongdoing or mislead the inquiring officer. Disclosure might also subject sources, witnesses, and their families to harassment or intimidation.

(14) *Investigative Applicant Processing Records (F12401 07YLNGB).* (i)

Exemption. This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect those who gave information in confidence during Air Force Office of Special Investigations (AFOSI) applicant inquiries. Fear of retaliation or exposure could cause sources not to make frank and open responses about applicant qualifications. This could compromise the integrity of the AFOSI personnel program that relies on selecting only qualified people.

(15) *Master Cadet Personnel Record (RR/Active) (F03502 OBXQPCE) and Master Cadet Personnel Record (RR/Historical) (F03502 OBXQPCD).* (i) *Exemption.* Parts of these systems are exempt from 5 U.S.C. 552a(d), (e)(4) (H) and (f), but only to the extent that they would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To maintain the candor and integrity of comments needed to evaluate a cadet for commissioning in the US Air Force.

(16) *Military and Leadership Order of Merit System (F03001XOBXQPCB).* (i) *Exemption.* Parts of this system are exempt from 5 U.S.C. 552a(d), (e)(4) (H) and (f), but only insofar as they reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To maintain the candor and integrity of comments needed to evaluate AF Academy cadets for commissioning in the US Air Force.

(17) *Personnel Files on General Officers and Colonels Assigned to General Officer Positions (F03501 AFREP T).* (i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To protect the integrity of information used in the Reserve Initial Brigadier General Screening Board, the release of which would compromise the selection process.

(18) *Personnel Security Case Files (F20503 DAI A).* (i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of those who give information in confidence for personnel security and related investigations. Fear of retaliation or exposure could cause sources to refuse to give this information in the frank and open way needed to pinpoint those areas in an investigation that should be expanded to fully develop or put to rest charges of questionable conduct. It is essential that all such allegations be resolved fairly and quickly.

(19) *Security and Related Investigative Records (F12406 07YLNGA).* (i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of those who give information in confidence for personnel security and related investigations. Fear of retaliation or exposure could cause sources to refuse to give this information in the frank and open way needed to pinpoint those areas in an investigation that should be expanded to fully develop or put to rest charges of questionable conduct. It is essential that all such allegations be resolved fairly and quickly.

(20) *Special Security Files (F20505 SPIC).* (i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of those who give information in confidence for personnel security and related investigations. Fear of retaliation or exposure could cause them to refuse to give this information in the

frank and open way needed to pinpoint those areas in an investigation that should be expanded to fully develop or put to rest charges of questionable conduct. It is essential that all such allegations be resolved fairly and quickly.

(21) *Sensitive Compartmented Information Personnel Security Records (F20505 AFIS A).* (i) *Exemption.* This system is exempt from 5 U.S.C. 552a(a)(3); (d); (e)(4)(G), (H), and (I); and (f) but only the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a (k)(2) and (k)(5).

(iii) *Reasons.* To protect the identity of sources to whom proper promises of confidentiality have been made during investigations. Without these promises, sources will often be unwilling to provide information essential in adjudicating access in a fair and impartial manner.

[44 FR 23068, Apr. 18, 1979, as amended at 46 FR 54730, Nov. 4, 1981; 47 FR 26618, June 21, 1982]

PART 807—ISSUING AIR FORCE PUBLICATIONS AND FORMS OUTSIDE THE AIR FORCE

Sec.

807.1 Issuing publications and forms to private citizens, private organizations, and commercial activities.
807.2 Issuing publications and forms to other Federal Government agencies and to State, local, and foreign governments.
807.3 Shipments made by contractors.

AUTHORITY: Sec. 8012, 70A Stat. 488, 10 U.S.C. 8012.

§ 807.1 Issuing publications and forms to private citizens, private organizations, and commercial activities.

(a) Classified publications, accountable forms, and forms requiring storage safeguards, will not be released to private citizens, private organizations, or commercial activities except as stated in the table shown in § 807.2, Part 806, Subchapter A, and Part 813, Subchapter B, of this chapter.

(b) Publications marked "for official use only" will be released to private citizens, private organizations, or commercial activities only under the conditions set forth in AFR 12-31.

(c) Publications and forms other than those specified in paragraphs (a) and (b) of this section will be issued, on request to private citizens and organizations of any country, but only under the conditions cited in AFR 11-25 and Parts 806, and 813 of this chapter. If requested items are not immediately available from local stocks, the Publication Distribution Office will obtain them from the Air Force Publications Distribution Center for release to the requester. For those publications with M or X distribution symbols to which the Publications Distribution Office is not normally entitled, PDOs will include a statement in the remarks section of the request that the item is for release to the public. When the index indicates that an item is stocked and issued by some activity other than the Air Force Publication Distribution Center the following action will be taken:

(1) If an office of primary responsibility in HQ USAF is designated as the source of availability, the request will be referred to the OPR.

(2) If the request is submitted under the Freedom of Information Act as defined in Part 806 of this chapter, refer it to HQ USAF/DADF.

(3) If some other source is shown (such as AFLC/LOLS, Wright-Patterson AFB OH 45433), refer the request to that source.

(d) Publications and forms will be issued free to commercial activities only under the conditions set forth in § 807.2. Otherwise, Parts 806 and 813 of this chapter apply.

[33 FR 17906, Dec. 3, 1968, as amended at 38 FR 973, Jan. 8, 1973; 39 FR 33797, Sept. 20, 1974; 41 FR 47426, Oct. 29, 1976]

§ 807.2 Issuing publications and forms to other Federal Government agencies and to State, local and foreign governments.

ISSUANCE OF PUBLICATIONS AND FORMS FREE OUTSIDE THE AIR FORCE

When AF Publication or form requested	And issue is—	Then it is available—	And may be obtained from—
Concerns invitation for bid.		For review by prospective bidders.	The Air Force procurement authority concerned.
Is needed in connection with contract performance.	One-time issue to contractor	For use by contractors	The Air Force or Defense Supply Agency (DSA) official responsible or administering the contract.
	Followup or recurring issue to contractor of Federal Supply Catalog handbooks and manual chapters.	When guaranteed by contract (otherwise contractor must purchase from Superintendent of Documents, GPO).	
	Followup or recurring issue to contractor of Air Force publication or form.	When the AF contract administering official determines issue to be necessary to contract performance.	
Is desired in small quantities (See Note).	One-time issue to another Federal, State, or local Government agency except Army and Navy.	Subject only to security regulations.	PDO or other issuing activity.

NOTE: Refer recurring requests and requests for large quantities to the procuring headquarters for determination of whether reimbursement is required.

[33 FR 17906, Dec. 3, 1968, as amended at 38 FR 973, Jan. 8, 1973]

§ 807.3 Shipments made by contractors.

(a) Air Force activities responsible for printing and distribution contracts will insure that contractors comply with this part. Appropriate shipping instructions must be included in printing contracts that require initial distribution of the publications being printed.

(b) Backup stock is generally shipped to storage points by freight. However, if the contract requires the contractor to make distribution by mail, the contracting activity is authorized to furnish the contractor with Air Force official mailing labels which carry the return address of the Air Force sponsor.

[39 FR 33798, Sept. 20, 1974, as amended at 41 FR 47427, Oct. 29, 1976]

PART 809a—ENFORCEMENT OF ORDER AT AIR FORCE INSTALLATIONS, CONTROL OF CIVIL DISTURBANCES, SUPPORT OF DISASTER RELIEF OPERATIONS, AND SPECIAL CONSIDERATION FOR OVERSEAS AREAS

Sec.

809a.0 Purpose.

Subpart A—Enforcement of Order at or Near Air Force Installations

809a.1 Military responsibility and authority.
809a.2 Civil responsibility and authority.
809a.3 Unauthorized entry to installations.
809a.4 Use of Government facilities.

Subpart B—Use of Military Forces in Civil Defense, Civil Disturbances, and Disasters

809a.5 Definitions.
809a.6 Base policies and laws.
809a.7 Conditions for use of Air Force resources.
809a.8 Military Commanders' responsibilities.

Subpart C—Special Considerations for Overseas Areas

809a.9 General.
809a.10 Requirements for supplements.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

§ 809a.0 Purpose.

This part prescribes the commanders' responsibilities for enforcing order at and in the vicinity of installations under their jurisdiction. It provides guidance for the use of Air Force re-

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sources in controlling civil disturbances and in supporting disaster relief operations. This part applies to installations in the continental United States and will be used to the maximum extent possible in the overseas commands, the States of Alaska and Hawaii, the Comonwealth of Puerto Rico, and the territories and possessions of the United States. Instructions issued by the appropriate unified commander, status of forces agreements, and other international agreements provide more difinitive guidance for the overseas commands. Nothing in this part should be construed as authorizing or requiring security police units to collect and maintain information concerning persons or organizations having no affiliation with the Air Force.

[37 FR 18728, Sept. 15, 1972]

Subpart A—Enforcement of Order at or Near Air Force Installations

§ 809a.1 Military responsibility and authority.

(a) Air Force installation commanders are responsible for protecting personnel and property under their jurisdictions and for maintaining order on installations, to insure the uninterrupted and successful accomplishment of the Air Force mission.

(b) Each commander is authorized to grant or deny access to his installations, and to exclude or remove persons whose presence is unauthorized. In excluding or removing persons from the installation, he must not act in an arbitrary or capricious manner. His action must be reasonable in relation to his responsibility to protect and to preserve order on the installation and to safeguard persons and property thereon. As far as practicable, he should prescribe by regulation the rules and conditions governing access to his installation.

[37 FR 18728, Sept. 15, 1972]

§ 809a.2 Civil responsibility and authority.

Local civil authorities are primarily responsible for maintaining order outside the perimeter of an installation. If assistance from civil authorities is insufficient, and the installation commander believes that the employment of Air Force resources is essential, he should send a request for instructions and a report of the circumstances to Hq USAF per Joint Chiefs of Staff (JCS) Pub. 6, Volume V, U.S. Air Force Reporting Instruction, June 1970. Unless an emergency involves imminent danger to personnel or property under the commander's jurisdiction, he is not authorized to act before instructions are received.

[33 FR 4462, Mar. 13, 1968, as amended at 37 FR 18728, Sept. 15, 1972]

§ 809a.3 Unauthorized entry to installations.

Removal of violators: If unauthorized entry occurs, the violators may be apprehended, ordered to leave, and escorted off the installation by personnel carefully selected for such duties. The complete and proper identification of violators, including the taking of photographs, must be accomplished. Violators who reenter an installation—after having been removed from it or having been ordered, by an officer or person in command or charge, not to reenter—may be prosecuted under 18 U.S.C. 1382. If prosecution for subsequent reentry is contemplated, the order not to reenter should be in writing so as to be easily susceptible of proof. Commanders are cautioned that only civil law enforcement authorities have the power to arrest and prosecute for unauthorized entry of government property.

[33 FR 4462, Mar. 13, 1968, as amended at 37 FR 18728, Sept. 15, 1972]

§ 809a.4 Use of Government facilities.

Commanders are prohibited from authorizing demonstrations for partisan political purposes but other dem-

onstrations may or may not be authorized only in accordance with the provisions of paragraph 3e, AFR 35-15. They are not to volunteer public statements on demonstrations or possible demonstrations.

[37 FR 18728, Sept. 15, 1972]

Subpart B—Use of Military Forces in Civil Defense, Civil Disturbances, and Disasters

§ 809a.5 Definitions.

(a) *Emergencies.* These are conditions which affect public welfare and occur as a result of enemy attack, insurrection, civil disturbances, earthquake, fire, flood, or other public disasters which endanger life and property or disrupt the usual process of government. The term "emergency" includes any or all of the conditions explained in this section.

(b) *Civil defense emergency.* This is a disaster situation resulting from devastation created by an enemy attack and requiring emergency operations during and following attack. It may also be proclaimed by appropriate authority in anticipation of an attack.

(c) *Civil disturbances.* These are goup acts of violence or disorder prejudicial to public law and order including those which follow a major disaster. They include riots, acts of violence, insurrections, unlawful obstructions or assemblages, or other disorders.

(d) *Major disaster.* Any flood, fire, hurricane, or other catastrophe which, in the determination of the President, is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement the efforts and available resources of the State and local governments in alleviating the damage, hardship, or suffering caused thereby.

[33 FR 4462, Mar. 13, 1968, as amended at 37 FR 18728, Sept. 15, 1972; 37 FR 20243, Sept. 28, 1972]

§ 809a.6 Base policies and laws.

This subpart contains policies on the use of Air Force military personnel in civil disturbances and disasters. The more important laws concerning military aid to civil authorities are also summarized.

(a) The Air Force gives military assistance to civil authorities in civil defense or civil disturbances and disasters only when such asistance is requested or directed. Commanders will not undertake such assistance without authority, unless the overruling demands of humanity compel immediate action to protect life and property and to restore order.

(b) The military service having available resources nearest the affected area is responsible for providing initial assistance to civil authorities in emergencies. Subsequent operations are to be according to the mutual agreement between the senior service commanders concerned.

(c) The protection of life and property and the maintenance of law and order within the territorial jurisdiction of any State is the primary responsibility of State and local authorities. It is well-established U.S. Government policy that intervention with military forces takes place only after State and local authorities have used their own forces and are unable to control the situation, or when they do not take appropriate action.

[33 FR 4462, Mar. 13, 1968]

§ 809a.7 Conditions for use of Air Force resources.

This part is not intended to extend Air Force responsibilities in emergencies to generate additional resources (manpower, materiel, facilities, etc.) requirements, or encourage participation in such operations at the expense of the Air Force primary mission. It is a guide for the employment of Air Force resources when:

(a) A disaster or disturbance occcurs in areas in which the U.S. Air Force is the executive agent of the United States.

(b) A disaster or disturbance occurs in areas that are remote from an Army installation but near an Air Force installation, thereby necessitating Air Force assumption of responsibility pending arrival of Army personnel.

(c) The overriding demand of conditions resulting from a natural disaster

compels immediate action to protect life and property and to restore order.

[33 FR 4462, Mar. 13, 1968, as amended at 37 FR 18728, Sept. 15, 1972]

§ 809a.8 Military Commanders' responsibilities.

(a) Civilians in the affected area will be informed of the rules of conduct and other restrictive measures to be enforced by the military. These will be announced by local proclamation or order, and will be given the widest publicity by all available media.

(b) Persons not normally subject to military law, who are taken into custody by military forces incident to civil disturbances, will be turned over to the civil authorities as soon as possible.

(c) Military forces will ordinarily exercise police powers previously inoperative in an affected area; restore and maintain order; maintain essential transportation and communication; and provide necessary relief measures.

(d) U.S. Air Force civilian employees may be used, in any assignments in which they are capable and willing to serve. In planning for on-base contingencies of fires, floods, hurricanes, and other natural disasters, arrangements should be made for the identification and voluntary use of individual employees to the extent that the needs for their services are anticipated.

[33 FR 4462, Mar. 13, 1968, as amended at 37 FR 18728, Sept. 15, 1972]

Subpart C—Special Considerations for Overseas Areas

§ 809a.9 General.

The use of Air Force personnel in overseas areas poses unique problems inasmuch as their use is governed by national laws of the country concerned and by the terms of international pact or bilateral agreements to which the United States is signatory.

[37 FR 18729, Sept. 15, 1972]

§ 809a.10 Requirements for supplements.

The implementation of policies relating to overseas areas must conform to the pertinent terms of the status of forces agreement under which a U.S. Force may be stationed in the foreign host country concerned. Accordingly, major commands must prepare individual supplements to this part for each country in which they have units stationed. These supplements shall contain specific policy and guidance on the use of Air Force personnel. It is essential that each commander clearly understands the status of his installation or base, including that of all sub bases, annexes, housing areas, etc.

[37 18729, Sept. 15, 1972]

PARTS 809b—809c [RESERVED]

PART 809d—PROCEDURES FOR REPORTING ON DEFENSE RELATED EMPLOYMENT

Sec.
809d.1 Purpose.
809d.2 Responsibilities.
809d.3 Reporting procedures.
809d.4 Supply of forms.

AUTHORITY: 10 U.S.C. 8012 and 32 CFR Part 166.

SOURCE: 36 FR 11196, June 10, 1971, unless otherwise noted.

§ 809d.1 Purpose.

This part provides instructions and assigns responsibility for compliance with Pub. L. 91-121, sec. 410, 83 Stat. 204 and Part 166 of this title. It applies to all present, retired and former military officers and civilian employees of the Department of the Air Force including employees of nonappropriated fund activities, subject only to the exceptions in Part 166 of this title.

§ 809d.2 Responsibilities.

(a) Part 166 of this title (sec. 166.4) identifies persons who are required to submit annually DD Form 1787, "Report of DOD and Defense-Related Employment", beginning with fiscal year 1971. This is an individual responsibility for all within categories described in § 166.4 of this title. Failure to comply with these reporting requirements is a criminal offense punishable by imprisonment and fine or both by Pub. L. 91-121. Questions concerning the requirement of this law or

the implementing instructions should be referred to the staff judge advocate of any Air Force facility or to Hq USAF/JACM, Wash D.C. 20314.

(b) Commanders will establish procedures to assure that:

(1) Separating/retiring officers in the grade of major or above with 10 or more years active duty are:

(i) Informed of the requirements of Pub. L. 91-121 and

(ii) Furnished a copy of this part during separation/retirement counseling by the CBPO-O section.

(2) Separating/retiring civilian personnel paid at a rate equal to or greater than the minimum rate for a grade GS-13 are:

(i) Informed of the requirements of Pub. L. 91-121 and

(ii) Furnished a copy of this part during separation/retirement counseling by the servicing CCPO.

(3) Civilian personnel who become subject to the reporting requirements set forth in paragraph (a) of this section, will be:

(i) Informed during their entrance orientation of the requirements of Pub. L. 91-121.

(ii) Furnished a copy of this part by the servicing CCPO.

(4) Civilian personnel who through promotion or step increases after initial employment, become subject to the reporting requirements set forth in paragraph (a) of this section, will be:

(i) Informed of the requirements of Pub. L. 91-121 at the time of such promotion or step increase and

(ii) Furnished a copy of this part by the servicing CCPO. (5) Sufficient stock levels of this part (AFR 30-4, April 5, 1971) are maintained at bases to satisfy specific requests from former or retired officers and civilian employees for individual copies.

§ 809d.3 Reporting procedures.

Three copies of DD Form 1787, RCSDD-M&RA(A) 1051, will be submitted by October 30, 1971, and by October 30 each year thereafter, to Hq USAF/JACM, Wash, D.C. 20314. (Before beginning to complete DD Form 1787, read carefully § 166.4 of this title.)

§ 809d.4 Supply of forms.

DD Form 1787 will be locally reproduced on 8 x 10½" paper.

SUBCHAPTER B--SALES AND SERVICES

PART 810 [RESERVED]

PART 811—SALE OR RELEASE OF AUDIOVISUAL DOCUMENTATION

Sec.
811.0 Purpose.
811.1 Exclusions.
811.2 Authority for using or releasing audiovisual materials.
811.3 Policy on the sale, use, and release of audiovisual products.
811.4 Procedures for requesting audiovisual materials.
811.5 Schedule of fees.
811.6 Motion picture or TV materials—requests for.
811.7 Still photographic materials—requests for.

AUTHORITY: 10 U.S.C. 8012, 31 U.S.C. 483a.

SOURCE: 45 FR 17991, Mar. 20, 1980, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation 95-5, February 11, 1980.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 811.0 Purpose.

This part sets the policy on the sale, use, and release of unclassified Air Force audiovisual documents, and the dissemination of classified documentary material. It explains when reproductions may be sold or released without charge; includes a schedule of fees; and tells how to collect and control fees. This part applies to all members and employees of the Department of the Air Force. It implements Department of Defense (DOD) Instructions 7230.7, June 12, 1979, and 7730.53, July 15, 1970. It should be used with Parts 806, 812 and 813 of this chapter.

§ 811.1 Exclusions.

This part does not apply to: (a) The sale of aerial reconnaissance or cartographic-type photography. Send each request for such photography to the Assistant Secretary of Defense (Public Affairs), Washington, D.C. 20301 (see AFR 95-8).

(b) The sale of completed productions. Requests for Air Force completed productions should be sent to the National Audiovisual Center, Washington, D.C. 20409.

(c) Audiovisual records made for the Air Force Office of Special Investigations, for use in an investigation or a counterintelligence report. Parts 806 and 952 of this chapter show who may use this photography.

(d) Audiovisual records made for aircraft and missile mishap investigators, for their investigations of Air Force aircraft and missile mishaps, per AFR 127-4. Parts 806 and 952 of this chapter show who may use this photography.

§ 811.2 Authority for using or releasing audiovisual materials.

(a) Part 811a of this chapter tells who may and who may not use official Air Force photography.

(b) Part 806 of this chapter tells who may and who may not have Air Force audiovisual materials.

(c) DOD 5200.1-R/AFR 205-1 tells how classified material must be handled. Copies of classified Air Force photography can be used for official needs, if the military unit that classified it approves its use. How classified material is downgraded is shown in DOD 5200.1-R/AFR 205-1.

(d) AFR 400-3 tells how a foreign government may get an Air Force film.

(e) The following agencies may clear audiovisual products for release:

(1) The Secretary of the Air Force, Office of Public Affairs (SAF/PA), may release audiovisual materials (per AFR 190-12, Parts 837 and 822 of this chapter, and this part) to:

(i) Newsprint, magazine, or electronic media.

(ii) Film companies.

(iii) Industries.

(iv) Nonprofit organizations.

(v) Agencies outside of the federal government.

(vi) The general public (not from the news media).

(2) The Secretary of the Air Force, Office of Legislative Liaison (SAF/LL), releases audiovisual material upon request from members of Congress.

(3) The International Affairs Division (HQ USAF/CVAI(S)), or major commands (MAJCOM), or separate operating agencies (SOA) that hold a delegation of disclosure authority letter (DDL), is the releasing authority of classified and unclassified materials for use by foreign governments, international organizations, or their representatives, per AFR 200-9.

(4) Requests for audiovisual material from foreign nationals or foreign industries (except representatives of foreign governments or international organizations) should be sent to SAF/PA for handling, per AFR 190-22.

(5) The servicing casualty assistance office is the releasing authority for audiovisual materials, to be used by the Armed Forces in casualty status, by their next of kin, or by authorized representatives.

§ 811.3 Policy on the sale, use, and release of audiovisual products.

(a) Sale of Audiovisual Material. Air Force audiovisual products may be sold. It is Air Force policy not to compete with commercial services. When audiovisual materials are sold to persons or organizations outside the federal government, charges and fees must be assessed according to Part 812 of this chapter.

(b) Release of Audiovisual Material to State and Local Governments. Audiovisual materials or services that meet the requirements of this part may be sold to State and local governments, under Title III of the 1968 Intergovernmental Cooperation Act. The requestor must certify that such services are not available from commercial sources.

(c) Sale of Original Aduiovisual Material. Original audiovisual materials are not for sale. Reproductions of the original may be sold. HQ USAF/XOOTV may authorize the release of original materials for federal government use. SAF/PA may loan original material to agencies outside the federal government and to the public. Material is released only to approved laboratories for reproduction and at no cost to the Air Force.

(1) Air Force depositories use only Air Force-owned materials in servicing approved requirements. Exceptions for access to other materials must be with the written permission of the owner.

(2) Production of materials for sale must not stop or slow down official Air Force work or be used to get more personnel or equipment.

(d) Restrictions on the Use of Records. Activities that send materials to the depositories must be sure that any limitation on its use is noted on the material. Also, the following restrictions must be observed:

(1) Materials are not used to promote or indorse a commercial service or product, per Part 837 of this chapter.

(2) Rights of official Air Force audiovisual material may not be claimed by any other agency or person.

(3) The waiver of proprietary and privacy rights cannot be granted with the sale or release of audiovisual materials, unless these rights and the rights of transfer are owned by the Air Force.

(4) Audiovisual material received from Air Force contractors must not be released or sold to competitive contractors. Such material may be released if it is part of an Air Force contract requirement or is not of a proprietary nature. Also, if the Air Force contracting officer, having jurisdiction over the contract, determines that it is in the best interest of the Air Force, such material may be released.

(5) Air Force activities creating research and development record photography and depositing it according to AFR 95-4, may get the film on loan from the depository having custody.

(6) Formal agreements between the Air Force and other government agencies provide for photographic and related services. When the provisions in such an agreement differ from this part, regarding release of materials to government agencies, the provisions of the formal agreement apply.

(e) Request and Services Exempt From Fees. Requests received from the below listed sources are exempt from the payment of fees, according to Part 813 of this chapter, if funds are available for producing the material, the service does not hurt the mission of the furnishing agency, all clearances and releases specified by this

part have been obtained, and work can be done during normal work hours. When the funds for such use are not on hand, the request may be filled when fees are paid by the requester.

(1) DOD and other government agencies, requesting audiovisual materials for official activities.

(2) Members of Congress, requesting audiovisual materials for use in official activities.

(3) Audiovisual depository materials or services that are furnished according to law or executive orders.

(4) Federal, State, territorial, county, or municipal governments or their agencies, carrying on a function related to or furthering an Air Force or other DOD objective.

(5) Nonprofit organizations, carrying on a function related to, or in the interest of public health and welfare.

(6) Members of the Armed Forces in a casualty status, or his or her next of kin or authorized representative, when the requested audiovisual material relates to the member.

(7) The general public, to further the Armed Forces recruiting program or public understanding of the Armed Forces, when such photography or service is determined by SAF/PAM to be in the best interest of the Air Force.

(8) Incidental or occasional requests for audiovisual depository materials or services (including requests from residents of foreign countries), when it is determined that fees would be inappropriate. (For the distribution of motion picture or still photography to foreign nationals, see AFR 190-22.)

§ 811.4 Procedures for requesting audiovisual materials.

(a) First, inquiries may be made to the depository to find out what audiovisual materials are available in broad subject areas. Such inquiries are not formal requests. No screening or access to materials is provided without the submission of a formal request and prior telephone or written approval of the request. A request for motion picture or television materials should be sent to the USAF Central Audiovisual Depository. A request for still photo materials should be sent to the USAF Central Still Photographic Depository.

(b) Submit formal requests according to §§ 811.6 and 811.7. When told that the request has been approved, the requester may communicate directly with the depository about the selection of materials.

§ 811.5 Schedule of fees.

Fees are established by the Department of Defense and are listed as follows:

NOTE: All prices are subject to change without notice.

1. Still Pictorial or Documentary Photographic Reproduction, Black and White. No more than three prints may be sold from any single negative.

	Each
a. 4 by 5 inch single weight glossy finish:	
1st print	$.75
2nd and 3rd prints from same negative	.50
b. 5 by 7 inch single weight glossy finish:	
1st print	1.00
2nd and 3rd prints from same negative	.75
c. 8 by 10 inch single weight glossy finish:	
1st print	1.25
2nd and 3rd prints from same negative	1.00
d. 8 by 10 inch double weight matte finish:	
1st print	2.00
2nd and 3rd prints from same negative	1.80
e. 11 by 14 inch double weight matte finish	4.20
f. 16 by 20 inch double weight matte finish	5.50
g. 20 by 24 inch double weight matte finish	7.75

2. Color Transparencies (not to exceed three copies of any one view):

	Each
a. 35mm duplicate slide from color slide	.60
b. 35mm transparency (not 1:1) from color negative, photo print, or transparency	3.50
c. 4 by 5 inch color transparency or color negative	8.00
d. 8 by 10 inch color transparency or color negative	16.75

3. Color Prints (not to exceed three copies of any one view):

	Each
a. 4 by 5 inch color print:	
1st print	2.25
2nd and 3rd prints from same negative	1.50
b. 8 by 10 inch color print:	
1st print	4.50
2nd and 3rd prints from same negative	2.00
c. 11 by 14 inch color print:	
1st print	9.60
2nd and 3rd prints from same negative	6.00
d. 16 by 20 inch color print	17.50
e. 16 by 10 inch color print mounted on 20 by 24 inch cardboard	23.00

98-112 O—82—7

BEST DOCUMENT AVAILABLE

f. Searching and researching per hour, $13.00; Minimum charge, $10.00

4. Motion Picture and Sound Track Stock Footage, Printed and Processed:

	Price per foot.	
	Contact	*Reduction*
a. Color:		
16mm work print (negative or positive)	$.17	$.24
16mm reversal work print	.17	.24
16mm master positive	.37	.64
16mm dup negative (from master positive	.40	.44
16mm reversal dup negative	.40	.44
16mm internegative (from reversal original)	.85	
16mm short rolls (under 200 feet), add	[1].06	
16mm tab-to-tab printing, add	[1].15	
35mm work print (negative or positive)	.22	
35mm master positive	.14	
35mm dup negative	.60	
35mm reversal dup negative	1.20	
35mm short rolls (under 400 feet) add	[1].06	
35mm tab-to-tab printing, add	[1].18	
b. Black and White:		
16mm work print (negative or positive)	.10	.16
16mm master positive (fine grain)	.13	.17
16mm dup negative	.20	.26
16mm short rolls (under 200 feet), add	[1].06	
16mm tab-to-tab printing, add	[1].07	
35mm work print	.11	
35mm master positive	.14	
35mm dup negative	.24	
35mm short rolls (under 400 feet), add	[1].06	
35mm tab-to-tab printing, add	[1].08	
c. Magnetic Tape:		
Dup (16mm, 35mm, ¼ inch) per hour	[2]55.00	
d. Miscellaneous Services:		
Searching, each hour or fraction thereof		$13.00
Minimum charge per order (including stock search)		25.00
16mm film to 2-inch videotape transfer (does not include tape)—per hour		225.00
Minimum charge for 16mm film to 2-inch videotape transfer (does not include tape)		125.00

[1]To basic price.
[2]Plus raw stock.

5. General. Charges for any additional services not specified above:

a. Minimum charge for office copy reproduction (minimum up to 6 images)	$2.40
b. Each additional image	.06
c. Each typewritten page	2.40

BEST DOCUMENT AVAILABLE

§ 811.6 Motion picture or TV materials—requests for.

RULE	A	B	C	D	E
	If the requestor is	and material requested is unclassified	and material requested is classified	then furnish in writing the	and send the request to
1	the public media (news, entertainment, documentary, advertisers, industrial media producers, editors & writers)	X	--	film sequence outline of script, intended use of the film, type of film stock needed (neg, interneg, print); approx number or screen feet	SAF/PA, Wash DC 20330, for national release, servicing OI, for local release
2	the general public (non-news media)	X	–		SAF/PA, Wash DC 20330
3	an Air Force or other federal government agency	X	–	intended use of the film; type of film stock needed (neg, interneg, print); approx number of screen feet	AAVS/LGHD, Norton AFB CA 92409
4	A federal government contractor (to meet AV reqmts specified in Federal contract)	X	–		AF plant representative
5	an Air Force contractor (to meet AV reqmts specified in an USAF contract)	–	X	intended use of the material; type of material needed (print, neg, interneg); required number of prints, slides, negs, etc.; a full justification for access to classified material	
6	a federal government contractor (to provide material for public release)	X	–		
7	AF plant representative (to provide material to federal government contractor that is specified in federal contract)	X	–		AAVS/LGHD, Norton AFB CA 92409
8	AF plant representative (to provide material to federal government contractor for release to public)	X	–		SAF/PA, AAVS/LGHD, *IN TURN*
9	AF plant representative (to provide material to an Air Force contractor that was specified in USAF contract)	–	X		MAJCOM or SOA (CC), AAVS/LGHD, *IN TURN*
10	a non-federal government agency (state, county, territorial municipal)	X	–	intended use of the film; type of film stock needed (neg, interneg, print), approx number of screen feet, a certification that requested material cannot be procured reasonably and expeditiously through normal business channels	SAF/PA, Wash DC 20330
11	members of Congress	X	X	intended use of film; type of film stock needed (neg, interneg, print); approx number of screen feet; full justification for access to classified material	SAF/LL, Wash DC 20330
12	Foreign governments, international organizations of their representatives	X	X		HQ USAF/CVAI(S), or MAJCOM or SOA (IN) holding DDL
13	foreign nationals or foreign industries (other than representatives of foreign governments or international organizations	X	–		ICA office serving the foreign country (see note)
14		–	X		HQ USAF/CVAI(S), Wash DC 20330, or MAJCOM or SOA (IN) holding DDL
15	an Air Force activity	–	X		MAJCOM or SOA (CC AAVS/LGHD *IN TURN*
16	a non-Air Force activity	–	X	intended use of film; type of film stock needed (neg, interneg, print); approx number of screen feet; full justification for access to classified material; a statement describing the measures to be taken, at least equal to those in DOD 5200.1-R/AFR 205-1, to safeguard and protect the material against unauthorized disclosure	HQ USAF/XOOTV, Wash DC 20330.

NOTE. Requests originating within the United States may be sent to SAF/PA, Wash DC 20330, for coordination with HQ USAF/CVAI(S) and ICA clearance

BEST DOCUMENT AVAILABLE

§ 811.7 Still photographic materials—requests for.

RULE	A	B	C	D	E
		and material requested is			
	If the requester is	unclassified	classified	then furnish in writing the	request to
1	the public media (news, entertainment, documentary, advertisers, industrial media producers, editors & writers)	X		story outline or ad copy; intended use of the material; type of material needed (neg, print, interneg); required number of prints, slides, negs, etc.	SAF/PA, Wash DC 20330, for national release; servicing O. for local release.
2	the general public (non-news media)	X	—	intended use of the material; type of material needed (neg, print, interneg); required number of prints, slides, negs, etc.	USAF Central Still Photo Depository, 1221 S Fern St, Arlington VA 22202.
3	an Air Force or other federal government agency	X	—		
4	a federal government contractor (to meet AV reqmts specified in federal contract)	X	—		AF plant representative.
5	an Air Force plant representative (to meet a federal government contractors needs specified in Federal contract)	X	—		SAF/PA, Wash DC 20330.
6	an Air Force contractor (to meet AV reqmts specified in an USAF contract)	—	X	intended use of the material; type of material needed (print, neg, interneg); required number of prints, slides, negs, etc.; a full justification for access to classified material	AF plant representative
7	an Air Force plant representative (to meet an Air Force contractor's needs specified in an USAF contract).	—	X		MAJCOM or SOA (CC, USAF Central Still Photo Depository, *IN TURN*
8	a non-federal government agency (state, county, territorial, municipal)	X	—	intended use of the material; type of material needed (neg, print, interneg); required number of prints, slides, negs, etc.; a certification that the requested material cannot be procured reasonably and expeditiously through ordinary business channels	SAF/PA, Wash DC 20330.
9	members of Congress	X	X		SAF/LL, Wash DC 20330.
10	foreign governments, international organizations or their representatives	X	X	intended use of the material; type of material needed (print, neg, interneg); required number of prints, slides, negs, etc.; a full justification for access to classified material	HQ USAF/CVAI(S), or MAJCOM or SOA (IN) holding DDL.
11	foreign nationals or foreign industries other than representatives foreign governments or international organizations)	X	—		USAF Central Still Photo Depository
12		—	X		HQ UASF/CVAI(S), Wash DC 20330, or MAJCOM or SOA (IN), holding DDL.
13	an Air Force activity	—	X	intended use of the material; type of material needed (neg, print, interneg); required number of prints, slides, negs, etc.; a full justification for access to classified material	MAJCOM or SOA (CC), USAF Central Still Photo, Depository, *IN TURN*
14	a non-Air Force activity	—	X	intended use of the material; type of material needed (neg, print, interneg); required number of prints, slides, negs, etc.; a full justification for access to classified material; a statement describing the measures to be taken, at least equal to those in DOD 5200.1-R/AFR 205-1, to safeguard and protect the material against unauthorized disclosure	HQ USAF/XOOTV, Wash DC 20330.

NOTE: Requests originating within the United States may be sent to SAF/PA, Wash DC 20330, for coordination with HQ USAF/CVAI(S) and ICA clearance.

BEST DOCUMENT AVAILABLE

PART 811a—AUDIOVISUAL DOCUMENTATION PROGRAM

Sec.
811a.1 Purpose.
811a.2 General provisions.
811a.3 Source of material for the program.
811a.4 Personal use of official audiovisual material.

AUTHORITY: 10 U.S.C. 8012.

SOURCE: 45 FR 32301, May 16, 1980, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation 95-3, April 14, 1980.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 811a.1 Purpose.

This part explains audiovisual documentation and the scope and purpose of the audiovisual documentation program. It tells who is responsible and how the program is accomplished. This part applies to all members of the Department of the Air Force.

§ 811a.2 General provisions.

Purpose of the program. The Audiovisual Documentation Program is established to:

(a) Record, through audiovisual means (still photos, motion pictures, video, and audio tape), the growth, progress, implementation, and exercise of Air Force resources in peacetime and combat.

(b) Collect and preserve audiovisual imagery of significant Air Force events having known or potential historical or archival value.

(c) Ensure that audiovisual imagery is available, to depict the prime mission, support activities, and significant functions of all United States Air Force (USAF), major commands (MAJCOMs), and separate operating agencies (SOAs). In this regard, audiovisual documentation is used for many purposes, at all levels in the Air Force. For this part, the purposes are divided into the following categories of use:

(1) *Immediate use.* Audiovisual documentation is used to help analyze and evaluate concepts and results of deployments, tests, and exercises, during peacetime and in combat operations. It is used to build visual presentations and augment motion picture film and television productions that support Air Force objectives. Audiovisual documentation provides source material for slides, silent and sound-on-film motion picture clips, video tapes, and multimedia products, used for training, management, informational, and briefing purposes.

(2) *Future use.* The audiovisual materials selected from the Air Force documentation effort that have long-term or permanent value are retained in the Department of Defense (DOD) central depositories and the National Archives. These make up the pictorial records of the development, growth, and progress of aerospace power, and provide a resource for future motion picture and television productions and other media.

§ 811a.3 Source of material for the program.

(a) The primary sources of material for this program are:

(1) AAVS documentation crews, both ground and aerial qualified, whose primary mission is to acquire audiovisual documentation imagery in peacetime and combat.

(2) Base audiovisual service centers.

(3) Optical instrumentation and engineering imagery of Air Force research, development, test, and evaluation projects.

(4) Armament recording imagery.

(b) Although the imagery recorded by these systems may not originate from a documentation requirement, when properly processed, indexed, and stored, it serves as a valuable source of audiovisual documentation.

§ 811a.4 Personal use of official audiovisual material.

All audiovisual materials generated or acquired by Air Force members, employees, or contractors in their official duties are the property of the U.S. Air Force. Personal use of such audiovisual material for sale or any other reason not directly related to an official Air Force activity is prohibited. Any deviation to this policy must be approved by HQ USAF/XOOTV.

(a) This policy also applies when Air Force members or employees, by choice or agreement, occasionally use personally owned equipment or supplies in their official duties.

(b) Photographs, motion picture films, transparencies, television tapes, audio recordings, and other audiovisual products are subject to safeguards and release requirements when released outside the Department of Defense. (Refer to Part 806, Air Force Regulations 95-4, Audiovisual Records Disposition Program; 190-12, Release of Unclassified Information to the Public; 190-22, Release of Unclassified Public Information to Foreign Nationals; and Air Force Manual 190-9, Information Policies and Procedures.

PART 812—USER CHARGES

Sec.

812.0 Purpose.
812.1 Policy.
812.2 Responsibilities assigned.
812.3 Non-user charge transactions.
812.4 Waived or reduced charges.
812.5 User charge exclusions.
812.6 Charges for special services.
812.7 Charges for lease or sale of property.
812.8 Processing collections.
812.9 Accounting and control.
812.10 Conflicts or recommendations.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: 44 FR 71825, Dec. 12, 1979, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation 177-8, March 23, 1979, and Interim Message Change 79-1, October 23, 1979.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 812.0 Purpose.

This part prescribes general policy for developing an equitable and uniform system of charges for special services and for selling or leasing property to persons or organizations outside DOD and outside the Federal Government; states the scope of user charges activities; furnishes guidelines and requirements for determining amounts of user charges, disposing of receipts, and accounting control of revenue from such charges. It implements DOD Instruction 7230.7, August 15, 1978, and portions of DOD Instruction 7730.53, July 15, 1970. This part applies to all AF activities providing special benefits to non-DOD and non-Government recipients.

§ 812.1 Policy.

Air Force activities should not compete with available commercial facilities in providing special benefits or in selling or leasing property to recipients outside DOD or outside the Federal Government. However, impose a reasonable charge when authorized special benefits are provided that:

(a) Enable the recipient to obtain more immediate or substantial gain or values (which may or not be measurable in monetary terms) than those accruing to the general public, or

(b) Are performed at the request of the recipient and are above and beyond the services regularly received by or available without charge to the general public.

§ 812.2 Responsibilities assigned.

Responsibility for initiating and developing schedules of charges and fees consistent with the policies in this part rests with:

(a) HQ USAF for common types of assistance furnished on a department-wide basis (these schedules are in AF functional area directives).

(b) Major commands for types of assistance peculiar to their respective commands.

(c) Each activity concerned for items or types of assistance furnished for which standard fees are not prescribed by higher authority. Each activity:

(1) Identifies the benefits or services covered by this part.

(2) Determines the extent of the special benefits provided.

(3) Determines cost or fair market value.

(4) Establishes the charges.

§ 812.3 Non-user charge transactions.

The provisions of this part do not cover or apply to the areas listed below. This does not necessarily mean charges are not made in these areas but, if made, they are determined

under the provisions of other AF directives and are not considered user charges. Charges for services furnished non-Government audiovisual media, for example, are made under Part 837 of this chapter. Similarly, charges for Armed Forces participation in public events are governed by Part 824 of this chapter. Additional non-user charge areas include:

(a) Morale, welfare, and recreation services to military personnel and civilian employees.

(b) Sale or disposal of surplus property under approved programs.

(c) Services furnished the general public relating to or furthering the AF recruiting program.

(d) Any services furnished representatives of public information media or the general public in the interest of public understanding of the Air Force.

(e) Any records made available to the public under the Freedom of Information Act.

(f) Any request for release of Air Force-developed computer programs to non-Government customers.

(g) Foreign military sales of material and services.

§ 812.4 Waived or reduced charges.

In general, charges may be waived or reduced when:

(a) Payment of the full cost or fee by a State or local government or by a nonprofit group would not be in the interest of the program.

(b) Furnishing the service without charge is an appropriate courtesy to a foreign country or international organization, or comparable fees are set on a reciprocal basis with a foreign country.

(c) The incremental cost of collecting the fees would be an unduly large part of the receipts from the activity.

§ 812.5 User charge exclusions.

Although of a user charge nature, the following are considered exempt from the requirement to assess a charge. The list is not all-inclusive.

(a) Any services requested by members of the Armed Forces when the document or information requested is required by such personnel in their capacity as members of the Armed Forces of the United States.

(b) Any services requested by members of the Armed Forces who are in a casualty status, or by their next of kin or legal representative, and requests for information from any source relating to a casualty.

(c) The address of record of an active duty member or former member of the Armed Forces, when it can be furnished informally through local directory (locator) reference, when requested by a member of the Armed Forces, a relative, or legal representative of a member of the Armed Forces, or the address of record requested by any source, when the address is required for the purpose of paying monies or forwarding property to a member or former member of the Armed Forces.

(d) Any services requested by or on behalf of a member or former member of the Armed Forces, or, if deceased, their next of kin or legal representative pertaining to requests for:

(1) Information required to obtain financial benefits regardless of the terms of separation from the service;

(2) Document showing membership and military record in the Armed Forces if discharge or release was under honorable conditions except as provided in paragraphs (d) (1) and (4) of this section;

(3) Information relating to a decoration or award or information required for memorialization purposes;

(4) Review or change in type of discharge or correction of records;

(5) Personal documents, for example, birth certificates, when such documents were required to be furnished by the individual.

(e) Services which are furnished free in accordance with statutes or executive orders.

(f) Information from or copies of medical and dental records and or X-ray films or patients or former patients of military medical or dental facilities, when such information is required and requests for such data are submitted by an accredited medical facility, physician or dentist, or requested by the patient, next of kin, or legal representative.

(g) Any services involving confirmation of employment, disciplinary or other records, salaries of active or sep-

arated civilian or military personnel when requested by prospective employers, or recognized sources of inquiry for credit or financial purposes.

(h) Any services requested by and furnished to a member of Congress for official use.

(i) Any services requested by State, territorial, county, or municipal government, or an agency thereof, which is carrying on a function related to or furthering an objective of DOD.

(j) Any services requested by a court when the furnishing of such will serve as a substitute for personal court appearance of a military or civilian employee of DOD.

(k) Any services requested by a nonprofit organization which is carrying on a function related to or furthering an objective of the Federal Government or in the interest of public health and welfare.

(l) Any services requested by an individual or corporation which is carrying on a function related to or furthering an objective of the Federal Government, when the cost of such services would be chargeable directly to a Federal Government contract or grant held by the individual or corporation.

(m) Any services requested by donors with respect to their gifts.

(n) Requests for services which are occasional and incidental (including any request from a resident of a foreign country), of a type that is not requested often, if it is administratively determined that a fee would be inappropriate in such an occasional case.

(o) Any request from Federal employees for completion of forms applicable to claims for reimbursement in connection with the Federal Employees Health Benefit Act of 1959.

(p) Administrative services normally provided in reference or reading rooms for public inspection of records, except for copies of records or documents furnished.

(q) Any request for military locator service by a financial institution located on a DOD installation.

(r) Any request for military locator service from financial organizations, engaged in the composite check program, that are not located on a DOD installation. Each request for an address of record must include:

(1) A statement that the organization is listed as a composite check recipient in the current U.S. Treasury Bureau of Accounts, Financial Organizations Directory.

(2) A statement that the individual whose address is requested has his or her pay forwarded as a direct deposit by DOD disbursing officer.

(3) The financial organization's account number for the individual.

(s) Any services rendered in response to requests for classification review of DOD classified records, submitted under Executive Order 11652, as implemented by DOD Regulation 5200.1-R, which consist of the work performed in conducting the classification review, or in granting and carrying to completion an appeal from a denial of declassification after such review.

(t) Any services of a humanitarian nature performed in certain emergency situations, such as: Life-saving transportation for non-U.S. Armed Forces patients, search and rescue operations, and airlift of personnel and supplies to a site of disaster. This does not mean inter- and intra-Governmental agreements to recover all or part of costs should not be negotiated. Rather, it means the recipient or beneficiary is not assessed a user charge.

§ 812.6 Charges for special services.

(a) *Establishing fees.* Establish user charge fees for special services on the basis of total costs or fair market value, whichever is higher, and not by the value of the services to the recipient. When applicable, determine fair market value in accordance with commercial rates in the local geographical area by referring to public pricing information, trade association information, market surveys, and other available information; do not conduct surveys solely for this purpose. Whenever feasible, establish and publish rates and fees in advance to facilitate uniformity of charges. Review rate and fee schedules annually or whenever significant changes in costs occur. Primary user charge rate and fee schedules are contained in Part 813 of this chapter, Schedule of Fees for Copying, Certifying and Searching Records and Other Documentary Material, and

Part 811 of this chapter, Sale or Release of Audiovisual Documentation.

(b) *Determining costs.* Determine or estimate costs from the best available records in the activity. Use existing cost systems; however, do not establish cost accounting systems solely to determine user charges. The following direct and indirect costs are included within the definition and determination of total costs:

(1) Civilian salaries or wages and associated AF share of fringe expenses. Use predetermined rates in AFP 173-13, USAF Cost and Planning Factors Guide, as the basis for assessing charges.

(2) Military personnel costs and associated AF share of fringe expenses. The rates to be charged and the basis for charging DOD, non-DOD Federal, and non-Federal agencies are in AFM 177-101, part 5, chapter 2.

(3) Costs for materials, supplies, travel, communications, utilties, equipment and property rental, and maintenance of property and equipment.

(4) An asset use charge at 4 percent of direct costs to cover depreciation and interest on investment in DOD-owned fixed assets.

(5) Cost of research, and of establishing standards and regulations when directly associated with the service performed.

(6) An administrative surcharge at 3 percent of total costs paragraph (b) ((1) through (5) of this section) to cover general and administrative costs.

§ 812.7 Charges for lease or sale of property.

When Federally owned property or resources are leased or sold, assess a rental cost or sales price based on a determination of fair market value. Determine fair market value by applying sound business management principles in accordance with comparable commercial practices. Charges need not be limited to recovery of costs; they may produce net revenues to the Government.

(a) *Sale of Material.* In the absence of a known market value, determine the fair value for sale of material on the basis of an aggregate of the:

(1) Standard price of the item carried in inventory (or at a reduced price when so authorized for sale within DOD).

(2) Accessorial and administrative costs provided in AFR 172-5, Reimbursement for accessorial and Administrative Costs.

(b) *Lease or Rental of Property.* Fair market value for lease or rental of property is normally determined according to commercial rates for similar property in the local geographical area.

(1) In cases involving lease or rental of military equipment, where there is no commercial counterpart, base fair market value on a computation of an annual rent made up of the sum of annual depreciation and interest on investment. Determine amount of interest on investment by applying a 10 percent interest factor to the net book value (acquisition cost plus additions less depreciation) of the asset. Add the cost of support, including general and administrative expenses, if support is furnished.

(2) In determining the fair market value of property to be leased, consideration may be given to the degree lessee assumes risk of loss or damage to the property and holds the government harmless against claims or liabilities by the lessee or third parties.

§ 812.8 Processing collections.

(a) Dispose of receipts per existing instructions.

(b) Normally, collect charges and fees before rendering the service. In some instances it may be more practical to collect charges and fees when conveying the service or property to the recipient.

(c) Normally, deposit fees and charges collected to the appropriate receipt account. However, when authorized by law or AF directives, deposit fees and charges collected to the credit of the appropriation or fund responsible for the principal financial support of the services. Deposit collections in excess of recovery of full costs to the appropriate receipt account. Deposit collections for utilities and services in connection with the lease of property to the appropriation or fund responsible for financing the operations of the equipment and facility.

§ 812.9 Accounting and control.

(a) Activities providing special benefits or leasing and selling property must make sure user charges imposed are in accordance with this part. Request revisions, through appropriate OPR channels, when rate and fee schedules included in functional area regulations do not appear adequate in view of current experience. When charges are determined locally, give special attention to ensure compliance with this part.

(b) Activities generating user charge transactions furnish the AFO all pertinent information necessary to voucher, collect, and otherwise account for each user charge being imposed. AFOs or their designees verify the accuracy and completeness of documentation supporting each user charge transaction. AFOs or designees also periodically review records, documentation, and procedures to ensure compliance with this part. An effective working relationship must be maintained between the AFO and activities generating user charge transactions.

§ 812.10 Conflicts or recommendations.

If this part conflicts with other regulations or law, or otherwise appears to require modification, submit recommendations to AFAFC/XSGB, Denver CO 80279.

PART 813—SCHEDULE OF FEES FOR COPYING, CERTIFYING AND SEARCHING RECORDS AND OTHER DOCUMENTARY MATERIAL

Sec.
813.0 Purpose.
813.1 Sales charge.
813.2 Service fees.
813.3 Fee schedule review.
813.4 Collecting and depositing fees.
813.5 Schedule of fees and rates.

AUTHORITY: 10 U.S.C. 81012, except as otherwise noted.

SOURCE: 44 FR 71828, Dec. 12, 1979, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation 12-32, October 9, 1979.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 813.0 Purpose.

This part tells what fees are collected for services related to copying, certifying, and searching records and other documentary material when release has been authorized. It implements DOD Instruction 7230.7, enclosure 3, June 12, 1979. This part applies to all Air Force activities.

§ 813.1 Sales charge

A charge is made for any service or sale that conveys a special benefit to the recipient beyond any benefits that accrue to the general public. For guidance see Part 812 of this chapter.

§ 813.2 Service fees.

The fee schedule in § 813.5 is used to set fees for services provided. This schedule will not be used for records furnished under Part 806 of this chapter. For other exclusions and exceptions see Part 812 of this chapter.

§ 813.3 Fee schedule review.

HQ USAF/DAA(S) reviews the fee schedule once a year to decide what changes are needed. An activity may send recommended changes to these fees, through channels, to HQ USAF/DAA(S).

§ 813.4 Collecting and depositing fees.

Persons responsible for collecting and depositing fees must comply with Part 812 of this chapter, AFMs 177-101 and 177-108, and other Accounting and Finance directives that apply.

§ 813.5 Schedule of fees and rates.

The schedule of fees and rates that the Air Force will apply are the same as those the Department of Defense published in the FEDERAL REGISTER on June 20, 1979 (44 FR 36029). (See 32 CFR 288.9.)

PART 814 [RESERVED]

PART 815—PERSONS AUTHORIZED MEDICAL CARE

Subpart A—General Provisions

Sec.
815.1 Purpose.
815.2 Definitions.

Sec.
815.3 Policies.

Subpart B—Retired Members of the Uniformed Services, Veterans' Administration (VA) Beneficiaries, and U.S. Soldiers' and Airmen's Home Members

815.10 Retired members of a uniformed service (§ 815.2(m)).
815.11 VA beneficiaries.
815.12 Members of the U.S. Soldiers' and Airmen's Home.

Subpart C—Reserve Officers Training Corps, Junior Reserve Officers Training Corps, Civil Air Patrol and Scouts of America

815.20 Senior Reserve Officers Training Corps members (ROTC), Air Force, Army, and Navy (includes advanced course applicants, 10 U.S.C. 2104b(6)(B)).
815.21 Junior Reserve Officers Training Corps (JROTC) members, Air Force, Army, and Navy.
815.22 Civil Air Patrol (CAP) members.
815.23 Scouts.

Subpart D—Personnel Being Processed or Detained

815.30 Applicants for enlistment or commission.
815.31 Maternity care for women of the Armed Forces discharged or relieved from active duty.
815.32 Prisoners of war, internees, other persons in military custody or confinement, and nonmilitary Federal prisoners.

Subpart E—Bureau of Employees' Compensation (BEC) Beneficiaries

815.40 Persons eligible for care.
815.41 Administrative procedures.
815.42 Transportation.
815.43 Prosthetic appliances, crutches, sacroiliac belts, spectacles, etc.

Subpart F—U.S. Public Health Service (USPHS) Beneficiaries and Certain Seamen

815.50 Persons eligible for care.
815.51 Physical examinations and immunizations.
815.52 Certain seamen.

Subpart G—Foreign Service Personnel

815.60 Department of State beneficiaries.
815.61 VA employees and their dependents in oversea offices.
815.62 Peace Corps volunteer personnel and their dependents.

Subpart H—Department of Justice (including Federal Bureau of Investigation), Federal Aviation Administration, Department of Defense, and Other Federal Agencies

Sec.
815.70 Department of Justice.
815.71 Federal Aviation Administration (FAA).
815.72 Secret Service special agents.
815.73 Job Corps and Volunteers in Service to America (VISTA) personnel.
815.74 Department of Defense and other U.S. Government agency employees paid from appropriated and nonappropriated funds and their dependents outside the United States.
815.75 Federal civilian employees health program.
815.76 Physical examinations for special categories of personnel.
815.77 Social Security beneficiaries.

Subpart I—Miscellaneous Categories of Personnel

815.80 American National Red Cross personnel, their dependents, and other officially recognized welfare workers.
815.81 U.S. citizen scientific consultants, technical representatives, and contract technicians and their dependents outside CONUS.
815.82 Alien scientific and technological specialists; employees of commercial airlines; civilian employees of "Cost-Plus-A-Fixed-Fee" contractors; and certain civilians (U.S. citizens) outside CONUS.
815.83 Civilians training in Air Force facilities, performing aircrew duties, or flying in Air Force aircraft.
815.84 Army and Air Force Exchange Service personnel proceeding overseas.
815.85 Claimants whose claims are administered by Federal departments and claimants who are proposed beneficiaries of private relief bills.
815.86 Persons not included elsewhere.

Subpart J—The Secretary of the Air Force and Designees

815.90 The Secretary of the Air Force and designees.

Subpart K—Nationals of Foreign Governments

815.95 North Atlantic Treaty Organization (NATO) personnel in the United States.
815.96 Foreign nationals, other than personnel of NATO nations, in the United States.
815.97 Persons requiring hospitalization for more than 90 days.
815.98 Trainees under the Military Assistance Program (MAP).

Sec.

815.99 Foreign nationals outside the United States.
815.100 Movement into the United States to obtain medical care.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: 33 FR 881, Jan. 25, 1968, unless otherwise noted.

NOTE: Part 806 states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the manuals and regulations that are referenced herein.[1]

Subpart A—General Provisions

§ 815.1 Purpose.

This part specifies who is eligible for medical care in Air Force medical treatment facilities, prescribes the extent of care authorized, and provides guidance for charges for such care.

§ 815.2 Definitions.

Terms used in this part are explained as follows:

(a) *Armed Forces.* The Air Force, Army, Navy, Marine Corps, and Coast Guard including their Reserve components.

(b) *Bureau of Employees Compensation (BEC) Beneficiary.* A civilian employee, including a civilian officer, of the U.S. Government who is injured or incurs a disease in the performance of duty and is designated as a beneficiary by the Bureau.

(c) *Continental United States (CONUS).* United States territory including the adjacent territorial waters located within the North American continent between Canada and Mexico.

(d) *Dependents.* (1) Dependents of active duty or retired members of a uniformed service and dependents of a person who at the time of his death was an active duty or a retired member of a uniformed service are defined in AFR 168-9.

(2) The following definition is applicable to dependents authorized care under other sections of this part unless otherwise specified:

(i) Spouses.

(ii) Children as defined in AFR 168-9.

(iii) Dependent parents and parents-in-law as defined in AFR 168-9.

EXCEPTION: Parents (including step-parents and parents-in-law) and foster parents of the officer or employee listed in § 815.60a when the parents are dependent on the officer or employee for over one-half of their support and are residing in his household overseas (authorized medical care but not at State Department expense).

(e) *Disability.* A disease, injury, or other physical or mental defect.

(f) *Elective medical care.* Medical, surgical, or dental care desired or requested by the individual or recommended by the physician or dentist which, in the opinion of the professional authority, can be performed at another time or place without jeopardizing life, limb, health, or well-being of the patient. An example is surgery for cosmetic purposes. Certain nonessential dental prosthetic appliances, as determined by a dental officer, also fall into this category.

(g) *Emergency medical care.* The immediate inpatient or outpatient medical care required to prevent loss of life, limb, or undue suffering.

(h) *Hospital Commander.* The director of base medical service/commander of base medical unit, of hospitals or dispensaries, as appropriate.

(i) *Maximum hospital benefit.* That point during hospitalization when the patient's progress appears to have stabilized and it can be anticipated that additional hospitalization will not directly contribute to any further substantial recovery. A patient who will continue to improve slowly over a long period of time without specific therapy or medical supervision, or with only a moderate amount of treatment on an outpatient basis, may be considered as having attained maximum hospital benefit.

(j) *Medical care.* Inpatient, outpatient, dental care, and related professional services, unless otherwise qualified.

(k) *Member of a uniformed service.* A person appointed, enlisted, inducted, called, ordered, or conscripted into a uniformed service who is serving on active duty or active duty for training.

[1] 37 FR 25358, Nov. 30, 1972.

(l) *Optimum hospital improvement for disposition purposes.* That point during hospitalization when, after essential initial medical treatment, the patient's medical fitness for further active service can be determined, and it is considered probable that further treatment for a reasonable period will not result in any material change in the patient's condition which would alter his ultimate type of disposition or amount of separation benefits.

(m) *Retired member of a uniformed service.* A member or former member of a uniformed service entitled to retired or retainer pay, or equivalent pay, as a result of service in a uniformed service.

(n) *Routine dental care.* All the medical, surgical, and restorative treatment of oral diseases, injuries, and deficiencies that come within the field of dental and oral surgery as commonly practiced by the dental profession.

(o) *Uniformed services.* The Air Force, Army, Navy, Marine Corps, Coast Guard, the Commissioned Corps of the Public Health Service, their respective components, and the Commissioned Corps of the National Oceanic and Atmospheric Administration (formerly Environmental Science Services Administration).

(p) *United States.* The 50 States and the District of Columbia.

(q) *Veteran.* A person who served on active duty in the Armed Forces and was discharged or released therefrom under conditions other than dishonorable.

(r) *Veterans' Administration beneficiary.* A veteran who is entitled to certain medical care in a Veterans' Administration hospital.

[37 FR 25358, Nov. 30, 1972]

§ 815.3 Policies.

(a) The hospital commander is the authority to approve medical care. He may provide medical care at his facility for authorized patients who are not uniformed services personnel if space and facilities are available and the capabilities of the professional staff permit. However, such persons must furnish the commander with satisfactory identification to prove their eligibility. Medical commanders are authorized to correspond direct with other medical authorities on the care of patients. In foreign countries the laws (customs and practices) of the host country must be complied with and local customs and practices considered when applying this part so that the operating rights and status of personnel under international agreements are not jeopardized.

(b) Patients authorized only emergency care and those admitted as civilian emergencies will be treated only during the period of the emergency. As soon as the emergency period ends, the patients will be discharged, if medically indicated, or transferred if civilian medical facilities are available and adequate as determined by the local hospital commander. These disposition instructions are applicable in all emergency cases unless otherwise specified in this part. The registrar and medical resource management officer will insure complete identification of these patients before disposition. Identification should not be limited to data supplied by the patient, such as home address or location of emergency addressee. Accurate, complete identification should be ascertained from identification cards, drivers' licenses, medical insurance cards, copies of discharge papers, social security cards, etc. If feasible, this information should be verified through visitors to the patient or by contacting the emergency addressee.

(c) Persons not authorized care in Air Force medical treatment facilities by law or regulation will be charged the full reimbursement rate for the type of care provided except when charges are waived by the Secretary of the Air Force or the appropriate oversea commander or when provided medical treatment in conjunction with natural disaster relief operations. See AFR 168–7 for rates applicable to specific categories of patients, including patients in transit in the aeromedical evacuation system.

(d) Air Force medical treatment facilities operating food service activities will collect and deposit subsistence charges according to AFM 168–4, chapter 10. If the medical facility does not operate a food service activity, it will charge inpatients according to Part

814 of this subchapter. In either case, the rate charge for subsistence furnished to persons in patient status who are not entitled to subsistence at Government expense will be according to rates in AFR 168–7.

[37 FR 25359, Nov. 30, 1972]

Subpart B—Retired Members of the Uniformed Services, Veterans' Administration (VA) Beneficiaries, and U.S. Soldiers' and Airmen's Home Members

§ 815.10 Retired members of a uniformed service (§ 815.2(m)).

Medical care is authorized for retired members, subject to the applicable conditions indicated below:

(a) Persons retired for other than physical disability are entitled to the same health benefits in uniformed services facilities as active duty members, subject to the availability of space and facilities and the capabilities of the professional staff, and to the priorities cited in AFR 168–9, paragraph 4–2, September 15, 1970.

(b) Persons retired for physical disability:

(1) *Temporary retirement (periodic medical examinations).* Temporarily retired members who require hospitalization in connection with the conduct of periodic medical examinations.

(2) *Temporary or permanent retirement (less than 20 years of active duty).* Members temporarily or permanently retired for physical disability or receiving disability retirement pay, with less than 20 years of active duty, except hospitalization for the following chronic conditions: chronic arthritis, malignancy, psychiatric or neuropsychiatric disorder, neurological disabilities, poliomyelitis with disability residuals and degenerative disease of the nervous system, severe injuries to the nervous system including quadriplegia, hemiplegia, and paraplegia, tuberculosis, blindness and deafness requiring definitive rehabilitation, and major amputees (hospitalization for the above conditions is the responsibility of the Veterans' Administration).

(3) *Temporary or permanent retirement (20 years or more of active duty).* Members temporarily or permanently retired for physical disability or receiving disability retirement pay, with 20 years or more of active duty, except those with blindness, neuropsychiatric or psychiatric disorders, and tuberculosis (hospitalization for the above conditions is the responsibility of the Veterans' Administration).

(c) Persons mentioned above who are eligible for medical care in uniformed services facilities may be moved between such facilities and from uniformed services facilities overseas to continental U.S. facilities, when directed in writing by competent medical authority.

NOTE: A member temporarily or permanently retired for physical disability electing to receive disability compensation from the Veterans' Administration in place of retired pay is eligible for care in uniformed services medical facilities, except for those chronic conditions listed in paragraph (b)(2) of this section. A member removed from the temporary disability retired list and discharged with severance pay is not eligible for medical care in uniformed services facilities at the expense of the Air Force even though he is entitled to and receives disability compensation from the Veterans' Administration.

[37 FR 25359, Nov. 30, 1972]

§ 815.11 VA beneficiaries.

(a) *Authority for hospital admission within CONUS.* (1) Veterans who are VA beneficiaries will be admitted to Air Force hospitals having beds allocated to the VA upon written authorization from the VA facility having jurisdiction over the area in which the hospital is located.

(2) Veterans admitted to Air Force hospitals on an emergency basis may or may not be eligible Veterans' Administration beneficiaries. However, if the patient is a veteran, the hospital commander will notify the responsible VA field station of the admission within the required 72-hour period and request written authorization and disposition instructions. Notification should include a copy of the individual's discharge certificate, order for release from active duty under other than dishonorable conditions, or evidence of receipt of VA compensation or discharge for disability incurred or aggravated in line of duty, if available.

(b) *Authority for hospital admission outside CONUS.*

(1) Veterans of the Armed Forces who are U.S. citizens residing or sojourning abroad may be provided medical care for service connected disabilities on presentation of a signed authorization. The responsibility for authorizing medical care in foreign countries is vested in:

(i) Republic of the Philippines: Director, Outpatient Clinic, United States VA Regional Office, APO San Francisco 96528.

(ii) All other foreign countries: Veterans' Administration Hospital, 50 Irving Street NW., Washington, DC 20422.

(2) A medical treatment facility furnishing a veteran emergency medical care will promptly notify the appropriate office and request authorization for treatment and instructions for the disposition of the patient. (Admission procedures include an examination of passport and/or visa to aid in verifying U.S. citizenship and legal address.) If the approving authority does not issue an authorization for this care, charges for medical care at the full reimbursement rate (FRR) or the full outpatient rate (FOPR) will be collected locally from the veteran.

(c) *Hospitalization of veterans with undesirable or bad conduct discharges.* Authorization for hospitalization of persons in this category is at the discretion of the VA.

[33 FR 881, Jan. 25, 1968, as amended at 37 FR 25359, Nov. 30, 1972]

§ 815.12 Members of the U.S. Soldiers' and Airmen's Home.

Members of the Soldiers Home may be furnished medical care upon presentation of written authority from the Governor of the Home. This requirement may be waived in an emergency. In such cases the hospital commander will immediately request such authorization. Normally, dental care is not authorized for members of the home.

[33 FR 881, Jan. 25, 1968, as amended at 38 FR 14829, June 6, 1973]

Subpart C—Reserve Officers Training Corps, Junior Reserve Officers Training Corps, Civil Air Patrol and Scouts of America

§ 815.20 Senior Reserve Officers Training Corps members (ROTC), Air Force, Army, and Navy (includes advanced course applicants, 10 U.S.C. 2104b(6)(B)).

(a) *Authorization for medical care.* If they have the written, signed authorization of the appropriate commander, senior (includes Advanced Course applicants) members of the Air Force, Army, and Navy ROTC may be admitted to Air Force medical treatment facilities under conditions described in this paragraph. The authorization will include:

(1) The patient's full name.

(2) His ROTC status.

(3) The name of the training unit attended.

(4) The period of attendance.

(5) The diagnosis (if known).

(6) A statement that the disability was, or was not, incurred in line of duty.

(7) A statement that the patient is entitled to medical care, as follows:

(i) For injury sustained while engaged in a flight or in flight instruction: Care will be provided for any ROTC member who suffers disability from an injury incurred in line of duty while engaged in a flight or in flight instruction under chapter 103 of Title 10, U.S.C.

(ii) For injury or disease incurred while traveling to, from, or during training: Care will be provided for disability from a disease or injury incurred in line of duty while performing authorized travel to or from such duty or while attending field training or a practice cruise under chapter 103, Title 10, U.S.C.

(b) *Application of the Federal Employees' Compensation Act to ROTC members in case of disability.* The Federal Employees' Compensation Act applies when the disability or death of a member of the Air Force, Army, or Navy ROTC occurs in line of duty as described in this paragraph. Such cases are administered in accordance with Subpart E of this part.

(1) A person's injury is considered to have been incurred in line of duty only if it results from his military or naval training or from his travel to or from that training as indicated in paragraph (a)(7)(ii) of this section.

(2) Any person who contracts a disease or illness as the result of performing training during the periods indicated in paragraph (a)(7)(ii) of this section is considered to have been injured in line of duty during that period.

(c) *Civilian medical attendance.* Air Force ROTC members may require civilian medical attendance during their training period if medical facilities of the uniformed services or other Government agencies are not readily available. However, prior approval must be obtained for such civilian medical attendance (Part 880 of Subchapter I of this chapter).

(d) *Medical service authorized for conditions not in line of duty.* Medical care is authorized for injury or disease contracted not in line of duty, as follows:

(1) During a specified training period an ROTC member—regardless of his line-of-duty status—may receive medical care from Air Force medical facilities, if available.

(2) An ROTC member requiring hospital treatment for a disability incurred not in line of duty may be retained in, or admitted to, an Air Force medical treatment facility after his specified training period ends if the hospital commander deems such action in the best interests of all concerned. Any member physically unable to be moved from the place of training to his home may be included under this provision. Hospitalization will be limited to what is necessary until:

(i) The patient can be disposed of to a State, municipal, or private institution designated by the patient or his next of kin, or

(ii) The patient's condition has so improved that he can be released from the hospital.

(e) *Physical examination.* When directed by competent orders, ROTC students at colleges, universities, or other institutions may be given physical examinations at Air Force medical facilities, if available. When the Air Force facility does not have the capability to complete the examination, supplemental care is authorized if it is more economical than to transport the member to another Armed Forces medical facility. Hospitalization is authorized when qualification for service cannot otherwise be determined. This period is to be used for diagnostic purposes only, not to correct disqualifying defects. Hospitalization furnished such individuals for emergency conditions occurring during the physical examination period will be administered as stated in § 815.86.

(f) *Disposing of ROTC members hospitalized after end of training.* (Also see § 815.40(b).) When an ROTC patient no longer requires hospitalization, he will be brought before a board of medical officers for final disposition. This applies to ROTC members who remain in the hospital after the completion date of training and to members who are hospitalized for injuries sustained in line of duty while voluntarily flying in Government aircraft pursuant to competent orders.

(g) *Advice to ROTC members on release from a medical treatment facility.* When ROTC members are leased from the hospital, they will be told how to obtain subsequent care at Government expense (see paragraph (b) of this section) for injuries or disease incurred as described in paragraph (a) of this section.

[33 FR 881, Jan. 25, 1968, as amended at 37 FR 25360, Nov. 30, 1972]

§ 815.21 Junior Reserve Officers Training Corps (JROTC) members, Air Force, Army, and Navy.

Members of JROTC units, Air Force, Army, and Navy, are authorized hospitalization and medical care in emergencies occurring while participating in base visits at Air Force installations. Hospitalization beyond the period of emergency or medical care at other than Air Force medical facilities is not authorized at Air Force expense.

[37 FR 25360, Nov. 30, 1972]

§ 815.22 Civil Air Patrol (CAP) members.

(a) CAP membership is divided into two groups:

(1) *Seniors.* Adults over 18 years of age.

(2) *Cadets.* Boys and girls who are U.S. citizens and have passed their 13th birthday or (if younger) are enrolled in high school or its equivalent (grade 9 or above) and are not more than 20 years of age. A cadet may become a senior member when he is 18 years old, but this status change is not mandatory.

(b) During a period of specified assignment, a senior CAP member may be provided medical care in an Air Force medical treatment facility for injury or disease incurred while he was engaged in authorized activities without regard to line of duty status (Part 832 of Subchapter C of this chapter). Authorized activities are those performed under Air Force direction and authorized in writing by competent authority. Such authorization must cover a specific assignment and prescribe a time limit for the assignment.

(c) A senior member who is injured or contracts a disease in line of duty and who receives medical care beyond the period of specified assignment will be reported to the Bureau of Employees' Compensation as a potential beneficiary of that Bureau (Subpart E of this part). The benefits of the Federal Employees' Compensation Act have been extended by law (5 U.S.C. 8141) to include senior CAP members who are injured or who contract disease in line of duty while engaged in authorized activities. Such duty includes the period of travel to and from the place where service or duty is performed. Medical care beyond the authorized encampment period will not be provided at Air Force expense.

(d) Charges for medical care provided beyond the period of specified assignment for injury or disease incurred not in line of duty will be the responsibility of the patient.

(e) When attending encampments at Air Force installations, cadets will be provided medical care in an emergency. Senior member benefits do not apply to CAP cadets. Treatment required beyond the encampment period will be provided only until medical care can be arranged elsewhere and will not be provided at Air Force expense.

(f) Medical care is not authorized at Air Force expense in other than Air Force medical facilities for either senior or cadet members.

(g) Prior written authorization from the Air Force liaison officer of the CAP wing to which the member is assigned is required for admission to an Air Force medical facility, except in an emergency. In an emergency, written authorization is obtained with the least practicable delay.

[37 FR 25360, Nov. 30, 1972]

§ 815.23 Scouts.

Boy Scouts of America, including Explorer Scouts, and Girl Scouts of the United States of America may be provided medical care in emergencies occurring while the scouts are participating in visits, training exercises, and encampments at Air Force installation. Hospitalization beyond the period of emergency or medical care at other than Air Force medical facilities is not authorized at Air Force expense.

[37 FR 25360, Nov. 30, 1972]

Subpart D—Personnel Being Processed or Detained

§ 815.30 Applicants for enlistment or commission.

(a) Physical examinations for determining qualification for duty in the uniformed services will be provided for:

(1) Personnel ordered into active service under the Military Selective Service Act.

NOTE: Selective Service registrants who suffer illness or injury while acting under orders issued under the Military Selective Service Act are entitled to emergency medical care, including hospitalization (50 U.S.C. App. 461).

(2) Applicants for enlistment or commission.

(3) Applicants for Air Force, Military, Naval, and Coast Guard Academies.

(4) Reservists not on active duty as required by AFR 160-19.

(5) Aerospace medicine consultation service for Reservists as required by AFR 161-23.

90-112 O—82——8

When supplemental services are considered essential for the proper evaluation of an applicant for the service academies or for commission or enlistment, but are not available at the military facility, the facility may procure these necessary services from local civilian sources utilizing local funds. Hospitalization is authorized when qualification for service cannot otherwise be determined. This period is to be used for diagnostic purposes only, not to correct disqualifying defects. Medical care including hospitalization, may be furnished such individuals for emergency conditions occurring during the physical examination period.

(b) In addition to the above, applicants for the Air Force Academy may be afforded emergency hospitalization and treatment for injury incurred in the actual performance of physical aptitude examinations while at an Air Force facility. Hospitalization should not exceed 3 days. If final disposition cannot be effected within this period, instructions should be obtained from HQ USAF/SGHM, Washington, D.C. 20314.

[37 FR 25360, Nov. 30, 1972]

§ 815.31 Maternity care for women of the Armed Forces discharged or relieved from active duty.

(a) Female members who are found pregnant upon final medical examination for separation from the Armed Forces, or who are discharged or relieved from extended active service duty under honorable conditions because of pregnancy, are eligible for maternity care in connection with that pregnancy, in military medical facilities. (Care in civilian medical facilities is not authorized at Government expense.) They should apply in writing to the commander of the military medical facility nearest their residence and include a copy of orders effecting separation and estimated date of confinement.

(b) Authorized treatment will include prenatal care, hospitalization, and postnatal care for mother and infant, incident to the pregnancy, either in the hospital or as an outpatient, for not more than 6 weeks after delivery.

(c) Mother must pay for subsistence during hospitalization and for travel to and from the medical facility. There is no charge for the infant while the mother is a patient. If the mother is discharged from the hospital and the infant must remain, charges will be at the infant rate.

[33 FR 881, Jan. 25, 1968, as amended at 37 FR 25360, Nov. 30, 1972]

§ 815.32 Prisoners of war, internees, other persons in military custody or confinement, and nonmilitary Federal prisoners.

Medical care is authorized for:

(a) Prisoners of war; persons interned by the Air Force; other persons in military custody or confinement.

(b) Military prisoners (punitive discharge executed) hospitalized beyond expiration date of sentence.

(c) Nonmilitary Federal prisoners from prisoner camps located on Air Force installations.

(d) Other nonmilitary Federal prisoners may be provided emergency care only. (Written authorization is obtained from the official in charge as soon as practical.)

Subpart E—Bureau of Employees' Compensation (BEC) Beneficiaries

§ 815.50 Persons eligible for care.

A person is not considered a BEC beneficiary until official notification of approval by the Bureau. The following persons may be provided medical care as BEC beneficiaries (or potential beneficiaries) under the Federal Employees' Compensation Act of 1916 as amended:

(a) Civilian employees of the Federal Government and the District of Columbia, except DoD nonappropriated fund employees and members of the District Police and Fire departments, who sustain personal injury while performing duty or who incur a disease caused by the employment. Dental care is limited to relief of emergencies.

NOTE: Non-U.S. citizens paid from appropriated funds are eligible for BEC benefits, except when they are otherwise covered under an agreement with the host country.

(b) ROTC members who are injured or who contract a disease in line of duty while engaged in training described in § 815.20 and who required medical care beyond the period of training specified in orders.

(c) Senior CAP members who are injured or who contract a disease in line of duty while engaged in authorized activities described in § 815.22(b) and who require medical care beyond the period of specified assignment.

(d) Civilian student employees in training at an Air Force medical facility.

[33 FR 881, Jan. 25, 1968, as amended at 37 FR 25360, Nov. 30, 1972; 38 FR 14829, June 6, 1973]

§ 815.41 Administrative procedures.

(a) Except in an emergency, persons in § 815.40 applying for medical care in an Air Force facility must present three copies of form CA 16, "Request for Examination and/or Treatment" (AFR 40-810). The supervisor or commander of the person applying for care will prepare this form. In an emergency, medical care (including hospitalization) may be furnished upon verbal authorization of the applicant's official supervisor. However, form CA 16 will be required for the responsible individual within 48 hours after verbal authorization. The date entered on the form will be the date of hospitalization or treatment.

NOTE: A CA form 16 is not required when only first aid treatment is provided civilian employees, since the Air Force does not charge the Federal Employees' Compensation Fund for such treatment. A CA form 16 is required if there is to be prolonged treatment, disability for work beyond the day of injury, recurrence of disability, or a charge to the Compensation Fund for medical treatment or supplies.

(b) Form CA 20, "Attending Physicians' Report," will be submitted to the BEC on all cases which result in charges for treatment or supplies against the BEC or which involve any loss of time beyond the day, shift, turn, or working period during which the injury occurs. Also, a copy of SF 502, "Clinical Record-Narrative Summary," will be submitted to the bureau on all hospitalized cases at the time of discharge. An interim SF 502 should be forwarded to the bureau after 30 days in hospitalized cases of extended duration.

(c) Form CA 20 pertaining to ROTC and CAP members should be submitted to the appropriate district BEC office through the local commander of the unit concerned. Air Force civilian personnel officers will, upon request, assist the claimant and the unit commander in carrying out their responsibilities.

(d) Payment for hospitalization not approved by BEC is the responsibility of the person receiving the care and will be collected locally. Sections 815.74 and 815.86, as appropriate, applies.

[37 FR 25361, Nov. 30, 1972]

§ 815.42 Transportation.

(a) *Within CONUS.* When necessary for proper treatment, a BEC beneficiary may be moved from an Air Force medical facility to another military medical facility. Except in an emergency, written approval must be obtained from BEC before moving the patient. In an extreme emergency a patient may be moved without prior authorization, but BEC must be notified as soon as possible.

(b) *Within oversea areas and from overseas to CONUS.* (1) When necessary for proper treatment, a BEC beneficiary may be moved from one military medical facility to another military medical facility within the oversea area without prior authorization from BEC. BEC should be notified of the transfer as soon as possible.

(2) Upon prior authorization by BEC, a beneficiary may be returned to CONUS by aeromedical evacuation. Disposition instructions should be furnished by BEC before departure of the patient from the oversea area. The patient's next of kin will be advised of the patient's condition and of the approximate date and place of his arrival in CONUS. The patient's next of kin or sponsor, or the patient himself, if his condition permits, should be advised to communicate directly with the appropriate BEC office regarding arrangements for continued medical care. Medical records will include information on notifications and ar-

rangements made prior to the patient's return.

(c) Transportation of a BEC beneficiary, when necessary for proper treatment, will be at BEC's expense.

§ 815.43 Prosthetic appliances, crutches, sacroiliac belts, spectacles, etc.

(a) Except in an emergency, BEC's approval will be obtained before a BEC beneficiary is furnished a prosthetic appliance. Request for approval will include complete identification of the beneficiary, justification for the appliance, approximate cost, and brief description of the appliance.

(b) Items required for the proper management of a hospitalized patient may be furnished without prior BEC approval. Such items include crutches, sacroiliac belts, elastic bandages, etc.

(c) BEC must give prior approval for furnishing or replacing spectacles without expense to the beneficiary. Moreover, the beneficiary's need for spectacles must be the result of the injury or disease directly attributable to his occupation or employment. Spectacles will not be replaced at BEC's expense when damaged or broken as a result of (1) an accident in which the visual acuity is not affected, or (2) the beneficiary's misconduct or negligence.

Subpart F—U.S. Public Health Service (USPHS) Beneficiaries and Certain Seamen

§ 815.50 Persons eligible for care.

The following persons may be provided medical care as beneficiaries of the U.S. Public Health Service (USPHS) when its facilities are not locally available:

(a) Crew members of vessels of the Environmental Science Service Administration whether on active duty or retired.

(b) Members of the Coast Guard Auxiliary in case of injury incurred or disease contracted while on active Coast Guard duty.

(c) Seamen employed on vessels of U.S. registry, other than canal boats engaged in coastal trade.

(d) Seamen employed on State school ships.

(e) Cadets at State maritime academies on State training ships.

(f) Seamen on vessels of the Mississippi River Commission and officers and crews of vessels of the Fish and Wildlife Service.

(g) Members of the Merchant Marine Cadet Corps.

(h) Employees and noncommissioned officers in the field service of the U.S. Public Health Service when injured or taken sick in the line of duty.

(i) Civilian seamen in service of ships operated by the Army or Military Sealift Command within the United States and its possessions.

(j) American Indians in CONUS.

(k) American Indians, Eskimos, and Aleuts in Alaska.

NOTE: Dental care is limited to relief of emergencies.

[33 FR 881, Jan. 25, 1968, as amended at 37 FR 25361, Nov. 30, 1972]

§ 815.51 Physical examinations and immunizations.

USPHS Reserve commissioned officers in inactive status may receive physical examinations and/or immunizations upon presentation of letter of authorization from the USPHS, Washington, D.C. 20203.

§ 815.52 Certain seamen.

(a) Civilian seamen in service of ships operated by the Army or Military Sealift Command outside the United States and its possessions may be provided medical care upon presentation of written authorization from the ship's master or appropriate Army authority (where the ship is in the service of the Army) or other administrative authority in case of Military Sealift Command ships. Seamen with injury or disease incurred in the course of employment should be administered as BEC beneficiaries (Subpart E). Dental care is limited to relief of emergencies.

(b) American seamen (officers and crews) outside CONUS on ships of U.S. registry may be provided medical care overseas upon presentation of written authorization from the ship's master or other administrative authority. Seamen in this category hospitalized overseas requiring prolonged hos-

pitalization may be evacuated through military aeromedical evacuation channels as soon as their condition permits. Dental care is limited to relief of emergencies.

(1) Transportation charges will be made as applicable.

(2) Other than care enroute, such seamen are not authorized care in Air Force medical facilities after return to the United States.

[33 FR 881, Jan. 25, 1968, as amended at 37 FR 25361, Nov. 30, 1972]

Subpart G—Foreign Service Personnel

§ 815.60 Department of State beneficiaries.

(a) *Outside the Continental United States.* (1) Officers and employees (U.S. citizens) of the agencies listed in this subparagraph serving abroad and dependents residing abroad with their sponsor may be provided medical care (including physical examinations and immunizations) in Air Force medical facilities at the expense of the State Department. Dental treatment at State Department expense is authorized only for conditions resulting in hospitalization or when required for posthospitalization follow-up.

(i) Department of State.

(ii) U.S. Information Agency (USIA).

(iii) U.S. Agency for International Development (AID). (AID contractor employees and their dependents are not entitled to medical care at State Department expense.)

(iv) Foreign Agriculture Service, Department of Agriculture (USDA).

(v) Federal Aviation Administration (FAA).

(vi) Bureau of Public Roads, Department of Commerce.

(vii) U.S. Geological Survey employees detailed to an oversea assignment under AID auspices.

(viii) Staff members of the Peace Corps. (Peace Corps volunteers, volunteer leaders, and their dependents are not included here.)

(ix) Such other agencies as may from time to time be included in the Foreign Service's Medical Program.

(2) Except in an emergency, medical treatment must be authorized in writing by a principal or administrative officer of an established State Department foreign service post before treatment is initiated. In an emergency, such approval will be obtained as soon as possible.

(3) Elective medical or surgical treatment will not be authorized unless the hospital commander concerned believes that the patient requires such elective treatment to adequately perform his assigned duties and return to the United States for medical reasons would otherwise result. Dental care is limited to relief of emergencies.

(4) Persons specified in paragraph (a)(1) of this section requiring hospitalization for a prolonged period may be returned to the continental United States upon the written request of the sponsoring agency.

(5) Dependent patients requiring prolonged hospitalization, who decline evacuation, will be released to the custody of their sponsor. Readmission for the same condition is authorized only to prevent loss of life or undue suffering.

(6) Authorization for medical care of dependents at State Department expense normally is limited to 120 days for each illness or injury. The 120 days cover the days for which expenses for treatment are incurred and need not be consecutive. Medical care beyond the 120 days may not be provided at State Department expense, except upon written authorization of the principal or administrative officer of the foreign service post concerned.

(7) If persons listed in paragraph (a)(1) of this section are furnished medical care which is not authorized at State Department expense, § 815.74 applies.

(8) Problems encountered in collecting locally from officers, employees, or dependents hospitalized for care not authorized at State Department expense will be referred to the immediate supervisor of the officer, employee, or sponsor.

(b) *Within the Continental United States.* Upon prior written request of the State Department medical director (or appropriate official of the agency concerned), the following medical services may be provided in Air Force medical facilities within the continental United States:

(1) Pre-employment physical examinations and necessary immunizations of applicants for appointment as officers and employees in the foreign service of the agencies listed in paragraph (a)(1) of this section.

(2) Pre-embarkation and periodic physical examinations and immunizations for officers, employees, and eligible dependents. The written request will include instructions for disposition of the SF 88, "Report of Medical Examination," and SF 93, "Report of Medical History."

(c) Upon written authorization provided by the State Department medical director, or a principal or administrative officer of the foreign service post concerned, persons listed in paragraph (a)(1) of this section may be provided medical care in the Continental United States at State Department expense for illness or injury incurred overseas.

[37 FR 25361, Nov. 30, 1972]

§ 815.61 VA employees and their dependents in oversea offices.

U.S. citizen employees of VA assigned to the oversea U.S. regional office, Republic of the Philippines, and their dependents, may be provided medical care, except as indicated in paragraph (a) of this section. The U.S. VA Regional Office, APO San Francisco 96528, will provide written authorization for care for beneficiaries mentioned above prior to their admission and will furnish evacuation and disposition instructions for patients being returned to the continental United States by aeromedical evacuation. In an emergency, approval will be obtained in writing as soon as practicable.

(a) Outpatient care, not a part of treatment provided in connection with hospitalization, is not authorized, except upon prior written request. Dental care is limited to relief of emergencies.

(b) Upon presentation of proper identification, an employee or dependent not entitled to care at VA expense may be provided care at the person's own expense under § 815.74.

[33 FR 881, Jan. 25, 1968, as amended at 37 FR 25361, Nov. 30, 1972]

§ 815.62 Peace Corps volunteer personnel and their dependents.

(a) *Within the continental United States.* (1) Peace Corps volunteer applicants (volunteers and volunteer leaders) may be provided preselection physical examinations at Air Force hospitals and "Class A" dispensaries.

(i) The above-mentioned persons will apply to the medical installation for appointment, with: a letter of authorization, SFs 88 and 93, detailed instructions regarding examinations required, necessary consultations, and disposition of the two forms.

(ii) Air Force physicians are not required to assess the qualifications of individuals.

(iii) Hospitalization is not authorized in conjunction with these examinations.

(iv) Immunizations are authorized upon special request of the Peace Corps.

(2) Upon request of the Peace Corps, separation or other special physical examinations may be provided for volunteers and volunteer leaders, and dependents of volunteer leaders. Instructions enumerated above apply.

(3) Medical care for illness or injury occurring during the training period may be provided volunteers and volunteer leaders (but not dependents of volunteer leaders) upon approval at departmental level. All such requests should be referred by the most expeditious means to HQ USAF/SGHM.

(b) *Outside the Continental United States.* (1) Volunteers, volunteer leaders, and dependents of volunteer leaders, and Peace Corps trainees may be provided medical care at Peace Corps expense when requested in writing by a representative or physician of a Peace Corps foreign service post. In an emergency, approval will be obtained in writing as soon as possible.

(2) Volunteers and volunteer leaders, and the dependents of volunteer leaders, may be provided termination physical examinations. In most cases these examinations will be conducted by Peace Corps staff physicians; however, assistance may be requested for ancillary services. Reimbursement for the examination, in whole or in part, will be at the full outpatient rate for

each individual. Request for payment will be sent to the Peace Corps, Medical Program Division, Washington, D.C. 20525.

[37 FR 25362, Nov. 30, 1972]

Subpart H—Department of Justice (including Federal Bureau of Investigation), Federal Aviation Administration, Department of Defense, and Other Federal Agencies

§ 815.70 Department of Justice.

(a) *Federal Bureau of Investigation (FBI).* (1) Upon presentation of a letter of authority from a special agent in charge of a field office of the FBI, investigative employees of the FBI, and applicants for employment as special agents with the FBI may be provided physical examinations and immunizations in Air Force medical facilities. The letter of authority will include instructions for disposition of SFs 88 and 93.

(2) Hospitalization is authorized when necessary to determine the employee's physical fitness. This period is to be used for diagnostic purposes only, not to correct disqualifying defects.

(3) FBI personnel stationed outside CONUS may be provided medical care in accordance with Subpart E of this part or § 815.74, as applicable.

(b) *Other personnel of the Department of Justice.* (1) Deputy U.S. marshals stationed in Alaska may receive physical examinations in Air Force medical facilities upon presentation of a letter of authority from the Department of Justice. This letter will include instructions for the disposition of the completed SFs 88 and 93.

(2) Hospitalization is authorized if necessary to determine the applicant's physical fitness. This period is to be used for diagnostic purposes only, not to correct disqualifying defects.

(c) *Claimants.* Upon written authorization from the Department of Justice or the U.S. attorney in the case, claimants whose claims or suits are being defended by the Department of Justice may be furnished physical examinations to determine the extent and nature of injuries or disabilities claimed. Report of such examination will be furnished promptly to the U.S. attorney. Hospitalization is authorized if necessary to determine the applicant's physical condition, but it should not exceed 3 days.

[33 FR 881, Jan. 25, 1968, as amended at 37 FR 25362, Nov. 30, 1972]

§ 815.71 Federal Aviation Administration (FAA).

(a) Upon receipt of a letter of authority, signed by a medical officer of the FAA, employees of that agency located on or in close proximity to Air Force bases in CONUS may be provided immunizations.

(b) Upon receipt of a letter of authority from an FAA Regional Office, Air Traffic Controllers (ATC) of the FAA may be furnished chest X-rays, electrocardiographs, and audiograms. FAA regional representatives will coordinate their requests for these medical services with the medical facility commander, who will determine the capability of his facility for rendering the requested service and schedule the workload accordingly. Normally the examinations will be completed in one visit. The medical facility commander will not read or evaluate the results of these tests; results will be forwarded directly to the FAA Regional Office arranging for the examination. The letter of authority will be attached to the DD Forms 7A (5 copies) submitted monthly to Hq USAF/SGHC for reimbursement action.

[33 FR 881, Jan. 25, 1968, as amended at 37 FR 25362, Nov. 30, 1972]

§ 815.72 Secret Service special agents.

Upon presentation of a letter of authority from the Chief, U.S. Secret Service, special agents of that agency may be provided routine annual physical examinations in Air Force medical facilities. The examinations will be conducted and recorded in the same manner as the periodic medical examinations provided nonflying officers. Examinations will be conducted on an outpatient basis only. If hospitalization for diagnostic purposes is considered desirable, a statement to that effect is placed in item 73 or 75, as appropriate, of the SF 88. The SF's 88 and 93 (one copy of each) are forward-

ed to the Chief, U.S. Secret Service, Treasury Department, Washington, D.C. 20220.

[37 FR 25362, Nov. 30, 1972]

§ 815.73 Job Corps and Volunteers in Service to America (VISTA) personnel.

The following services may be provided to:

(a) *Job Corps applicants.* Preenrollment examinations upon presentation of a letter of authority from a Director, Job Corps Center, or other appropriate official of the Corps. Air Force physicians are not required to assess the physical qualifications of applicants for enrollment. Completed SFs 88 and 93 of applicants will be forwarded to the official who requested the examination. The letter of authority will be attached to the DD Forms 7A (5 copies) submitted monthly to Hq USAF/SGHC for reimbursement action.

(b) *VISTA applicants.* Preenrollment examination upon receipt of written authorization on VISTA Form 36, "Authorization for Medical Examination and Care by a Federal Facility," and modified SF 88, "Report of Medical Examination." Air Force physicians are not required to assess the physical qualifications of applicants for enrollment. Completed examination forms will be forwarded to VISTA Medical Consultant, 1200 19th Street NW., Washington, D.C. 20506. The VISTA Form 36 will be attached to the DD Forms 7A (5 copies) submitted monthly to Hq USAF/SGHC for reimbursement action.

(c) *Job Corps enrollees and VISTA personnel.* Hospitalization, outpatient care, examinations, and immunizations for:

(1) Job Corps enrollees: Upon presentation of a letter of authority from a Director, Job Corps Center, or other appropriate official of the Corps. The letter of authority will be attached to the DD Forms 7 or 7A (5 copies) submitted monthly to Hq USAF/SGHC for reimbursement action.

(2) VISTA personnel: Upon presentation of a valid "Blue Cross and Blue Shield Identification Card" issued to VISTA personnel for personal identification by VISTA authorities. Each identification card issued will contain a VISTA identification number. That identification number will be shown after the name of the patient in item 5 of DD Forms 7 or 7A (5 copies) submitted monthly to Hq USAF/SGHC for reimbursement action.

NOTE: Job Corps enrollees and VISTA personnel will not be provided dental care except emergency care to relieve pain and suffering or as an adjunct to medical care of hospitalized patients. Medical services will normally be provided only when civilian, U.S. Public Health Service, or VA hospitals are not available, or if available, do not have the capability to provide the needed treatment.

[33 FR 881, Jan. 25, 1968, as amended at 37 FR 25362, Nov. 30, 1972; 38 FR 9017, Apr. 9, 1973]

§ 815.74 Department of Defense and other U.S. Government agency employees paid from appropriated and nonappropriated funds and their dependents outside the United States.

(a) Unless otherwise specified in this part, U.S. citizens who are employees of the Department of Defense or other Federal agencies (paid from appropriated or nonappropriated funds), and their dependents, stationed outside the United States, may receive medical care in Air Force facilities. Routine dental care is on a space available basis within the capabilities as determined by the base dental surgeon. When capabilities do not exist dental care will be limited to relief of emergencies. (In Puerto Rico, only those serving under a current transportation agreement are eligible for such medical and dental care.)

(b) Non-U.S. citizen civilian employees of the Department of Defense paid from appropriated or nonappropriated funds and their dependents may receive medical care in Air Force medical facilities when civilian facilities are not available or are not adequate. Charges will be imposed at the special reimbursement rate per inpatient day and at the special outpatient rate per outpatient visit as prescribed in AFR 168–7 except where:

(1) It is determined by the oversea major commander that salary rates paid non-U.S. citizen personnel are inadequate for a charge at the special

reimbursement rate. In such instances, the only charge will be for subsistence.

(2) Other official agreements are made to provide medical care without charge.

(c) U.S. citizen employees of the Department of Defense or their dependents may be returned to the Continental United States in a patient status. Before transfer, the patient or next of kin will make arrangements for continuing the required medical care in the continental United States.

(d) Subpart E of this part applies when an employee, paid from appropriated funds, is a potential BEC beneficiary.

[37 FR 25362, Nov. 30, 1972]

§ 815.75 Federal civilian employees health program.

Civilian employees of the Government paid from appropriated funds, and employees of Government-owned and controlled corporations are entitled to outpatient type care for on-the-job illnesses and injuries and for other outpatient care as set forth below. Employees on temporary duty at locations other than their permanent duty station are entitled to the same outpatient type care.

(a) Preemployment physical examinations, including related medical services required to complete the examinations.

(b) Immunization of employees and their dependents when authorized by AFR 161-13.

(c) Examinations following sickness absenteeism, when indicated.

(d) Examinations, when indicated, upon request of the employee's superior or competent medical authority.

(e) Periodic examinations to determine effect of environment.

(f) Emergency care for nonservice connected illness or injury. When admission is for 24 hours or more, personnel will be administered according to § 815.86 unless they are otherwise entitled to such care. Employees who are injured or become ill while on temporary duty may be transported in the aeromedical system when a medical reason exists and commercial transportation is not available. Transportation is chargeable to the accounting classification appearing on the employee's TDY orders.

(g) Treatment of minor illnesses during work hours when necessary to alleviate pain or when illnesses would require a disproportionate amount of time lost from the job.

(h) Upon the specific request of a local physician, special treatments on an outpatient basis are permitted to prevent loss of time from duty. Medicines needed for such treatments will be furnished by the employee, but will be administered without charge.

(i) Supplemental care is authorized, utilizing funds locally available to the medical facility, in performing special fitness-for-duty type examinations for civilian employees now on duty as well as for applicants for employment. In each instance, the examination should be justifiable on the ground of being necessary to determine if the physical condition of the employee or applicant for employment, such as, for example, physically handicapped persons, is commensurate with or will be aggravated by employment or will jeopardize the safety of the individual or his fellow employees.

[37 FR 25362, Nov. 30, 1972, as amended at 38 FR 14829, June 6, 1973]

§ 815.76 Physical examinations for special categories of personnel.

Examinations are confined to those required by Air Force or major command directives and examinations considered necessary by the medical facility commander. When physical examinations are beyond the capability of the Air Force medical facility, every effort should be made to have the examination performed by another uniformed services facility. Supplemental care is authorized, when necessary, using funds locally available to the medical facility.

(a) Preemployment and periodic physical examinations may be provided for:

(1) Contract food service employees.

(2) Base exchange employees and base exchange concessionaire employees.

(3) Officer, noncommissioned officer, and service club employees.

(4) Schoolteachers when employed on base or in overseas areas when employed in Armed Forces schools operated by a U.S. military department.

(5) Employees of civilian contractors when employed in a position that requires exposure to occupational hazards, that is, laser energy, toxic substances, etc., to such a degree that special physical examinations are required.

(b) Domestic servants employed by Armed Forces personnel may be given health inspections and immunizations in Air Force medical facilities at Government expense when required by command directives as a condition of employment. In instances outside the United States where health inspections and immunizations are not required as conditions of employment, these services may be provided without charge, upon the request of the sponsor, when the local director of base medical services deems that their provision is in the best interest of the health of the command. Health inspections are performed to insure that communicable disease will not go undetected at an Armed Forces installation. Medical care is not authorized in connection with these health inspections and only those procedures necessary to establish the presence or absence of communicable disease are carried out.

(c) Medical examinations in connection with disability retirement may be furnished civilian employees of all Federal agencies without charge when such examinations are requested by authorized representatives of the U.S. Civil Service Commission.

EXCEPTION: When hospitalization is necessary to the proper conduct of these examinations, subsistence charges will be collected locally from the person concerned. Hospitalization is authorized for diagnostic purposes only, not to correct disqualifying defects.

[37 FR 25362, Nov. 30, 1972]

§ 815.77 Social Security beneficiaries.

In an emergency, beneficiaries of the Social Security Health Insurance Program for the Aged (Medicare) may be provided hospitalization in Air Force medical treatment facilities within the United States and Puerto Rico. Social Security Medicare benefits are not authorized outside the United States other than in Puerto Rico. Emergency services under Medicare are defined as those services that are necessary to prevent death or serious impairment of the health of the individual, and which, because of the threat to life or health, necessitate the use of the most accessible hospital available that is equipped to furnish such services. Benefit payments under Medicare for emergency services can be made for only that period of time during which the emergency continues. Therefore, when the emergency is terminated and it is permissible from a medical standpoint, the patient should be discharged or transferred to a hospital participating in Medicare. The Social Security Administration local office will be notified as soon as possible after emergency admission of a social security beneficiary. DD Form 7 or 7A will be forwarded to HQ USAF/SGHC for central collection at the full reimbursement rate (include Medicare number and home address on the forms).

[37 FR 25363, Nov. 30, 1972]

Subpart I—Miscellaneous Categories of Personnel

§ 815.80 American National Red Cross personnel, their dependents, and other officially recognized welfare workers.

Such persons are authorized medical care subject to applicable conditions indicated below:

(a) *Red Cross personnel.* (1) Uniformed and nonuniformed, full-time, paid professional field and headquarters staff when on duty with a uniformed service.

(2) Uniformed, full-time, paid secretarial and clerical workers on duty outside the continental United States.

(3) Nonuniformed, full-time, paid secretarial and clerical workers on duty in Red Cross offices at installations within the United States, and volunteer workers, uniformed and nonuniformed, both within and outside the continental United States. (Medical care for these categories of personnel will be limited to care for in-

juries sustained in the course of performance of their duties at uniformed services facilities.)

(b) *Dependents of Red Cross personnel.* Dependents of Red Cross personnel listed in paragraphs (a)(1) and (2) of this section are authorized medical care on a space available basis when accompanying their sponsors outside the United States.

(c) *Other officially recognized welfare workers and non-Red Cross volunteer workers.* For injury sustained in the course of performance of their duties at uniformed services facilities.

[37 FR 25363, Nov. 30, 1972]

§ 815.81 U.S. citizen scientific consultants, technical representatives, and contract technicians and their dependents outside CONUS.

These categories of personnel may be provided medical care when the oversea commander determines that local civilian medical facilities are not available or are not adequate. Dental care is limited to relief of emergencies. Principals must be:

(a) Accompanying the Air Force in the field.

(b) On duty with the Air Force.

(c) Traveling under competent orders.

§ 815.82 Alien scientific and technological specialists; employees of commercial airlines; civilian employees of "Cost-Plus-A-Fixed Fee" contractors; and certain civilians (U.S. citizens) outside CONUS.

(a) Alien specialists who have contracted with the U.S. Government to perform scientific and technological work for the military services will be provided emergency medical care at or near the project area to which assigned. The Air Force will not defray expenses incurred as a result of treatment by a civilian physician or hospitalization in a civilian hospital.

(b) Employees of commercial airlines under contract to Military Airlift Command may be provided emergency medical care.

(c) Employees of a civilian "Cost-Plus-A-Fixed-Fee" contractor with the Government, upon written request of the contractor, may be provided medical care. Reimbursement will be in accordance with the terms of the contract. In the absence of specific agreement in the contract, medical care may be furnished at the full reimbursement rate specified in AFR 168-7 and collected locally from the contractor. Effective care is not authorized.

(1) Patients whose disabilities will preclude their return to work and those requiring prolonged treatment will be reported to the contractor for disposition. Such patients may be returned to CONUS as soon as their condition permits. Transportation costs will not be borne by the Air Force, but by the employee or the contractor.

(2) When the return of such patients is indicated and they are to travel in patient status, the contractor or patient will make arrangements for care required in CONUS before departing from the oversea hospital. Care in Air Force medical facilities in CONUS is not authorized except for intransit care and disposition purposes.

(3) Reimbursement for hospitalization is not required for the period these patients are traveling in the aeromedical evacuation system.

(d) When the oversea commander determines that local civilian facilities are not available or adequate, he may furnish medical care to the following personnel and their dependents who assist in mission accomplishment and are not authorized medical care under other provisions of this part. Dental care is limited to relief of emergencies. Such persons include, but are not limited to:

(1) News correspondents.

(2) Representatives of commercial airlines.

(3) Representatives of oil companies.

(4) Professional educators and instructors.

(e) The following personnel who assist the oversea commander in accomplishing his mission may be furnished emergency hospitalization and medical treatment. Reimbursement for hospitalization will be obtained whenever the recipient has health or medical insurance which covers the type of medical care provided. Where the recipient has no health or medical insurance coverage, the charge will be for subsistence only. Medical care is not authorized during delays en route

except when such delays are for the convenience of the Department of Defense or the Department of State:

(1) Civilian religious leaders or religious groups.

(2) Celebrities and entertainers.

(3) Athletic consultants or instructors.

(4) Representatives of the United Service Organization, other social agencies, and educational institutions. (Exception: Paragraph (f) of this section.)

(5) Persons in similar status who provide direct service to the U.S. Armed Forces.

(6) Persons authorized medical care by this section must have obtained invitational orders from the Office of the Secretary of Defense or from one of the military departments to visit oversea military commands.

(f) Hospitalization and medical care on a space available basis may be provided USO professional personnel (oversea area executives, club directors, and associate club directors) and their accompanying dependents without charge (except subsistence which will be collected locally).

(g) Persons listed in paragraphs (e) and (f) of this section may be furnished immunizations prior to departure from CONUS at no charge.

[33 FR 881, Jan. 25, 1968, as amended at 37 FR 25363, Nov. 30, 1972]

§ 815.83 Civilians training in Air Force facilities, performing aircrew duties, or flying in Air Force aircraft.

(a) When considered necessary or desirable in the Government interest, the following persons may be provided physical examinations to determine physical qualifications for training, for performing aircrew duties, or for flying in Air Force aircraft:

(1) Employees or prospective employees of Government contractors who have been otherwise approved for training in Air Force facilities or for performing aircrew duties.

(2) Passengers and maintenance personnel flying in high performance aircraft.

(3) Civilian employees of or under contract to the Department of Defense and of other Government departments or agencies who have been approved to perform aircrew duties or receive instructions in such duties.

(4) Test Pilots of the Department of Defense; representatives of or persons sponsored by foreign governments; other non-U.S. citizens; and U.S. citizens not a part of the Department of Defense who have been otherwise approved for flying Air Force test aircraft.

(b) The examinee may be hospitalized to complete the examination. Medical care is not authorized in this connection.

§ 815.84 Army and Air Force Exchange Service personnel proceeding overseas.

(a) Preembarkation physical examinations and immunizations may be provided without charge upon written request of the sponsoring agency. Hospitalization is not authorized in this connection.

(b) The extent of the examinations and immunizations to be accomplished will be prescribed by the requesting agency and will be comparable to those performed for employees of the Government prior to their employment overseas.

(c) See § 815.74 (a) and (b) for medical care authorized outside CONUS.

§ 815.85 Claimants whose claims are administered by Federal departments and claimants who are proposed beneficiaries of private relief bills.

(a) *Air Force, Army, and Navy.* So the nature and extent of the injuries or disabilities claimed may be determined, civilian claimants may be furnished medical examinations and hospitalization incident thereto, without charge except for subsistence, upon written request from the Air Force activity responsible for administering the claim. Subsistence charges will be collected locally.

(b) *Other Federal departments.* So the nature and extent of the injuries or disabilities claimed may be determined, civilian claimants may be furnished medical examinations upon written request from the Federal department responsible for administering the claim. The full outpatient rate will be charged for the medical examination. DD form 7A will be forwarded

to HQ USAF/SGHCA for reimbursement action. When hospitalization is necessary to the proper conduct of these examinations, DD form 7 will be forwarded to HQ USAF/SGHCA for reimbursement action.

(c) *Private relief bills.* So the nature and extent of the injuries or disabilities claimed may be determined, claimants who are proposed beneficiaries of private relief bills based on injuries or disabilities allegedly arising from the operation of the defense establishment may be furnished medical examinations and hospitalization incident thereto, without charge except for subsistence. Subsistence charges will be collected locally.

[37 FR 25363, Nov. 30, 1972, as amended at 38 FR 14829, June 6, 1973]

§ 815.86 Persons not included elsewhere.

(a) Any person may be admitted to an Air Force medical facility in an emergency upon the approval of the hospital commander or his designated representative (§ 815.3(b)). The full reimbursement rate specified in AFR 168-7 applies and will be collected locally from the individual. If collection cannot be accomplished, accounts should be processed according to AFM 168-4, chapter 10.

(b) Civilian patients hospitalized as a result of natural disaster, as defined in AFM 355-1, will be billed for subsistence only. There will be no charge for outpatient care.

[37 FR 25364, Nov. 30, 1972]

Subpart J—The Secretary of the Air Force and Designees

§ 815.90 The Secretary of the Air Force and designees.

(a) The Secretary of the Air Force is authorized medical care in Air Force medical facilities. Individual designees of the Secretary may be provided care upon his prior written authority. Donors of organs for transplant to authorized personnel may be admitted upon the prior written authority of the Secretary. Unless specifically authorized otherwise by the Secretary, the full reimbursement rate, or the outpatient rate, whichever applies, will be collected locally from the individual.

(b) This authority is delegated to major commanders having medical facilities outside CONUS for persons referred to in § 815.99(c). In those instances when the geographical dispersion of a major oversea command warrants such action, the authority may be redelegated to a major subordinate commander.

(c) The Secretary of the Air Force authorizes former Presidents of the United States, and their wives, widows, and minor children to receive medical care in Air Force medical facilities without advance written approval. Medical facilities will immediately notify HQ USAF/SGH of persons treated under this authorization. At the time of treatment, SGH will determine the charges (if any).

(d) The Secretary of the Air Force authorizes active members of the U.S. Senate and of the U.S. House of Representatives (dependents excluded) to receive medical care in Air Force medical facilities without advance written approval. Medical facilities will immediately notify HQ USAF/SGH of persons treated under this authorization. Unless specifically authorized otherwise by the Secretary, the full reimbursement rate or the full outpatient rate, whichever is applicable, will be collected locally from each person.

(e) The Secretary of the Air Force authorizes preadoptive children of active duty and retired members to receive medical care in Air Force medical facilities upon prior application to the medical facility commander and approval of the local staff judge advocate. Care is authorized at the rate charged military dependents.

(1) To apply for medical care as a Secretary of the Air Force designee the sponsor must submit a request to the medical facility commander with the following information:

(i) The name of the prospective adoptee.

(ii) The sponsor's name, rank, social security account number and organization, or address for retirees.

(iii) A notarized, acknowledged, or photostat copy of the legal decree or other instrument issued by a court of

law or adoption agency which awarded custody for the purpose of adoption.

(iv) The date of placement and expected date of final adoption.

(v) A statement that no other organization is obligated to furnish medical care for the child.

(2) After the medical facility commander makes his determination as to whether or not the child fits within this class of Secretarial designee, he will indorse the application to the local staff judge advocate for decision. If approved, the application will be so annotated by the staff judge advocate and returned to the medical facility. A copy will be provided to the sponsor and the original retained on file in the medical facility until the adoption is final. It may then be destroyed.

(3) Responsibility for approval will not be delegated below the medical facility commander.

(4) Applications for medical care of foster children, wards, or those under the care of a legal guardian are not considered under this paragraph.

[33 FR 881, Jan. 25, 1968, as amended at 37 FR 25364, Nov. 30, 1972]

Subpart K—Nationals of Foreign Governments

§ 815.95 North Atlantic Treaty Organization (NATO) personnel in the United States.

(a) Military personnel of the following NATO nations, who in connection with their official duties are stationed in, or passing through the United States, and their dependents residing in the United States with their sponsors may be provided medical and dental care to the same extent and under the same conditions as comparable U.S. military personnel and their dependents: Belgium, Canada, Denmark, France, Federal Republic of Germany, Greece, Iceland, Italy, Luxembourg, Netherlands, Norway, Portugal, Turkey, and United Kingdom. "Official" duties in this instance are not limited to NATO duties. NATO military personnel, and their dependents, in the United States as trainees with military assistance and foreign military sales programs are included in this category, unless otherwise specified by agreement between the United States and the NATO country.

(b) Here, "military personnel" and "civilian personnel" mean:

(1) *Military personnel.* Persons belonging to the land, sea, or air armed services of any State which is a party to the North Atlantic Treaty when in the United States in connection with their official duties.

(2) *Civilian personnel.* Civilian person accompanying military personnel as employees of an armed service of the NATO nation concerned, provided that such civilians are not stateless persons nor nationals of any State which is not a party to the North Atlantic Treaty, nor nationals of, nor ordinarily resident in, the United States. (Medical care for this category is the same as for comparable U.S. civilian personnel.)

(c) Eligible persons stationed in the United States who apply for care will present an appropriate DD Form 1173, "Uniformed Services Identification and Privilege Card." Each card will indicate the services authorized and bear an expiration date. Eligible persons passing through the United States on official duties who require care will present orders or other identification verifying their status.

[37 FR 25364, Nov. 30, 1972]

§ 815.96 Foreign nationals, other than personnel of NATO nations, in the United States.

Personnel of foreign nations, when in the United States on a status officially recognized by an agency of the Department of Defense, may be provided medical care in Air Force medical facilities to the same extent and under the same conditions as comparable U.S. personnel. Such persons include:

(a) Military personnel whose names appear on the Diplomatic List or the List of Employees of Diplomatic Missions published by the Department of State.

(b) Military personnel assigned or attached to U.S. military units for duty or training.

(c) Military personnel on duty in the United States at the invitation of the

Department of Defense or one of the military departments.

(d) Military personnel accredited to joint U.S. defense boards or commissions.

(e) Dependents of military personnel listed in paragraphs (a) through (d) of this section when residing with their sponsor.

(f) Civilian personnel of foreign nations on duty in the United States at the invitation of the Department of Defense or one of the military departments may be provided care is an emergency.

[33 FR 881, Jan. 25, 1968, as amended at 37 FR 25364, Nov. 30, 1972]

§ 815.97 Persons requiring hospitalization for more than 90 days.

When it is determined that a person authorized care under §§ 815.95 and 815.96 will require hospitalization for a period in excess of 90 days, Hq USAF/SGHM, Washington, D.C. 20333, will be advised by letter. The letter will include the patient's name, home country, official status, diagnosis, and expected duration of hospitalization.

[33 FR 881, Jan. 25, 1968, as amended at 37 FR 25364, Nov. 30, 1972]

§ 815.98 Trainees under the Military Assistance Program (MAP).

Foreign personnel (military or civilian) in the United States or stationed at U.S. Armed Forces installations overseas for training under the MAP may be provided medical care. Medical care from civilian sources may be authorized this category of personnel. Elective medical care, as defined, in § 815.2(f), is not authorized. In the rare instance when elective medical care is considered necessary, the complete facts of the case will be transmitted for approval by message to CSAF/SGHM. The notification will include name, grade, country of origin, diagnosis, type of elective medical care, and prognosis.

(a) Transfer between medical facilities of the Armed Forces in the continental United States is authorized when the medical facility to which the person was originally admitted cannot provide required care.

(b) When the hospital commander has determined that a MAP trainee requires medical treatment that will force discontinuance of his training for more than 90 days, the commander of the training facility will be so notified. When it is determined that the trainee is physically or mentally disqualified for further training, the hospital commander will:

(1) Forward information by message to ATC/ACFA with an information copy to CSAF/SMSB. Information will include name, grade, service number, home country, diagnosis, prognosis, expected time and type of disposition, and recommendation on whether return to home country is indicated.

(2) When a trainee is being returned to his home country, ATC/ACFA will request HQ USAF/STPLA to move the patient, with an information copy of request to HQ USAF/SMSB and SAF/USI. Send a copy of the patient's clinical records and all personal effects with the patient.

(c) When dependents of MAP trainees live in the continental United States or on U.S. Armed Forces installations overseas with their principal, they may be provided medical care subject to the availability of space and facilities and the capabilities of the medical staff. Dental care may be provided to the same extent and under the same conditions as for dependents of U.S. military personnel.

[37 FR 25364, Nov. 30, 1972]

§ 815.99 Foreign nationals outside the United States.

Authority is hereby delegated to the oversea major commander or comparable commander with oversea responsibility to issue regulations pertaining to medical care for nationals of foreign governments. Such regulations will designate categories of persons, both military and civilian, that may be authorized medical care. The general policy is as follows:

(a) Admission to Air Force medical facilities may be authorized subject to the availability of space and facilities and the capabilities of the professional staff, provided that the foreign nationals cannot obtain the necessary care

from medical facilities of their own country. Foreign military personnel may be charged for subsistence only when this will help to advance or serve the best interests of the oversea command; otherwise medical care furnished will be at the full reimbursement rate.

(b) For non-U.S. citizens employed at Air Force oversea military installations, see §§ 815.40(a) and 815.74(b).

(c) For special category of foreign nationals, see § 815.90(b) and as follows:

(1) Medical care may be furnished outside the United States to foreign nationals not otherwise authorized care under this part when such action is determined to contribute to the advancement of the public interests of the United States.

(2) Persons in this category will be provided care as "Designees of the Secretary."

(3) Generally, care under this paragraph will be afforded only to foreign officials of high national prominence. However, care may be afforded to other foreign nationals when, because of unusual circumstances or the extraordinary nature of the case, such action should be in consonance with paragraph (c)(1) of this section.

(4) Normally, care will not be afforded under this section for treatment of foreign nationals who suffer from incurable afflictions or who require excessive nursing care.

(5) The recommendations of the chief of the diplomatic mission to the country involved should be sought before determining whether care may be afforded under this section.

(6) Collection will be made locally, except that in unusual cases the oversea major commander may waive the charges.

§ 815.100 Movement into the United States to obtain medical care.

(a) Foreign nationals (military or civilian) will not be moved or scheduled for movement into the United States for care in Air Force medical facilities without prior approval of the State Department, the Secretary of the Air Force, and the Chief of Staff, USAF. The responsibility for obtaining diplomatic approval rests with the foreign country concerned.

(b) The request to move a foreign national into the United States to obtain medical care will be processed in the following manner:

(1) The request will be forwarded to HQ USAF/CVAFL, Washington, D.C. 20330 and will include:

(i) Full name and grade of service member.

(ii) The country of which a citizen.

(iii) Results of coordination with chief of the diplomatic mission to the country involved.

(iv) Medical report giving the history, diagnosis, clinical findings, results of diagnostic tests and procedures, and all other pertinent medical information.

(v) Availability of professional skills and adequacy of facilities for treatment in the member's country and oversea Air Force medical facilities.

(vi) Who will assume financial responsibility for costs of transportation and hospitalization.

(2) Upon approval of entry to the United States from the Department of State, the Chief of Staff, USAF, will determine the acceptance of the patient for treatment in an Air Force medical facility. The Surgeon General, USAF, will furnish recommendations on medical aspects of the case based on paragraphs (b)(1) (iv) and (v) of this section and identify the Air Force hospital having capability to provide required care. The Chief of Staff, USAF (STPLA), will task the oversea commander to move the patient to a hospital in the continental United States designated by the Surgeon General, USAF. Complete recoupment for hospitalization and transportation will be indicated. Should the inability to pay for transportation and/or hospitalization become a factor, the Secretary of the Air Force will resolve the matter.

(3) If medical care for a foreign national is approved by the Secretary of the Air Force, it is considered sufficiently important that the need for hospitalization is paramount to all other considerations. Dependents, family members or wives, should not normally accompany the patient unless required as non-medical attend-

ants for care en route or if the attending physician requests their presence. The provisions of hospitalization for a foreign person do not automatically entitle other family members to privileges of the military base, such as base exchange, housing or commissary.

(4) When a case of this nature originates with, or is processed by, an agency outside the Department of Defense, the Defense official transmitting the recommendation or request should include a statement of agreement of the agency involved that any fiscal responsibility in the matter will be borne by the originating agency if necessary.

[37 FR 25364, Nov. 30, 1972]

PARTS 816—817 [RESERVED]

PART 818—FINANCIAL RESPONSIBILITY

Sec.

818.0 Purpose.

Subpart A—General Information

818.1 Air Force policy.
818.2 Indebtedness.
818.3 Dependent support.
818.4 Paternity.

Subpart B—Responsibilities

818.5 Air Force member.
818.6 Commanders.
818.7 Legal assistance officer.
818.8 Director of Personnel (DP).
818.9 Comptroller (AC).
818.10 Office of Information (OI).
818.11 Air Training Command (ATC).

Subpart C—Procedures

818.12 Processing indebtedness complaints.
818.13 General requirements for accepting debt complaints.
818.14 Action required if complaint is received.
818.15 Responding to dependent support and indebtedness complaints.
818.16 Responding to paternity claims.
818.17 Bad check procedures.
818.18 High-level inquiries.
818.19 Certificate of compliance.
818.20 Standards of fairness.

AUTHORITY: Sec. 8012, 10A Stat. 488; Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: 45 FR 9898, Feb. 14, 1980, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation 35-18, July 1, 1977 and Change 1, September 7, 1979.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 818.0 Purpose.

This part establishes standards for considering the financial responsibility of Air Force military members. It states conditions a complainant must meet before request for assistance in processing debt complaints are accepted and explains how requests are processed. It establishes the standards for Air Force military members regarding the support of their dependents; defines generally who is a dependent and establishes the measures of support expected. This part outlines procedures for processing paternity claims made against Air Force military members. It also provides guidance for base-level information, education, and counseling programs designed to enhance management of personal finances. This part implements DOD Directives 1344.3, November 19, 1966; 1344.7, July 1, 1969; and 1344.9 May 7, 1979.

Subpart A—General Information

§ 818.1 Air Force policy.

The Air Force expects its members to pay their debts on time. Within the limits of available resources, the Air Force provides financial management information, opportunities for education, and personal counseling designed to enhance management of personal finances, and takes administrative or disciplinary action in cases of continued financial irresponsibility. Such action is taken to improve discipline and maintain the standards of conduct expected of Air Force personnel, but cannot be used to enforce private civil obligations.

§ 818.2 Indebtedness.

(a) *Air Force Enforcement of Private Obligations.* The Air Force does not arbitrate disputed debts, admit or deny whether or not the complaints

90-112 O—82——9

are valid, or confirm the liability of its members. Under no circumstances does the Air Force communicate to complainants, whether any action has been taken against members as a result of complaints. Except for debts owed to the Federal Government, including its instrumentalities (for example, nonappropriated fund activities), the Air Force is not authorized to require a member to pay a private debt or to use any part of his or her earnings to pay the debt, even though the indebtedness may have been reduced to judgment by a civil court. The enforcement of private obligations of Air Force members is a matter for civil authorities. (See §§ 818.2(d) and 818.3(b).)

(b) *State Laws Prohibiting Creditors From Contacting a Debtor's Employer.* Some States have enacted laws which prohibit creditors from contacting a debtor's employer regarding indebtedness or communicating facts of indebtedness to an employer unless certain conditions are met. The conditions which must be met to remove this prohibition are generally such things as reduction of a debt to judgment or obtaining written permission of the debtor. In States having such laws, processing debt complaints is not extended to creditors who have not met the requirements of the State statute. Therefore, creditors attempting to avail themselves of the processing privilege must first certify that they comply with the law of the State where the debtor resides regarding contact with a debtor's employer (§ 818.19). Commanders must advise creditors that this policy has been established to avoid inadvertent violation of the State law by a creditor. A similar practice must be inaugurated in any State enacting a similar law with respect to debt collection. Commanders should contact their staff judge advocates (SJAs) for a determination of the local law.

(c) *Processing Debt Complaints Based on Bad Checks and Similar Instruments.* Every check, draft, or order for the payment of money drawn on any bank or other depository carries with it a representation that the instrument will be paid in full when presented. Negotiating bad checks is, therefore, considered a serious matter which (depending on the circumstances) may result in administrative or punitive action against the member. Whether or not such action is taken, a check which is dishonored for any reason remains evidence of an indebtedness until redeemed by the member. When a commander receives a complaint from a person, firm, agency, or instrumentality that a member has written a bad check, procedures in § 818.17 apply.

(d) *Bankruptcy.* The Department of the Air Force policy concerning bankruptcy petitions by military personnel is one of strict neutrality. Bankruptcy is considered to be a right granted by statute which is available to military personnel the same as any other citizen. No adverse action may be taken against a member of the Air Force either for filing a petition in bankruptcy or because of a discharge in bankruptcy. Sometimes the underlying facts may involve mismanagement of personal affairs or dishonorable failure to pay debts which are factors that can form the basis for adverse action against a member of the Air Force, but neither filing a petition (for bankruptcy or for payments out of future earnings) nor a discharge in bankruptcy can, of themselves, be considered "mismanagement" or "dishonorable." Commanders should seek information and advice from the office of the SJA that is considering the facts of each individual case before providing financial counseling for members considering bankruptcy. Further, the Air Force recognizes and complies with decrees in bankruptcy cases.

(e) *Chapter XIII, Wage Earner Plans.* Federal laws provide for protecting and relieving wage earners according to chapter XIII of the Bankruptcy Act (11 U.S.C. 1001-1, et seq.). Proceedings filed under chapter XIII are not bankruptcy and are not to be construed as such. Chapter XIII, Wage Earner Plans, also provides procedures for paying debts under the supervision of the U.S. Federal District Court that apply and provides protection for both debtors and creditors. Commanders should consult with the SJA to get sufficient information and

advice before counseling members of their command concerning chapter XIII entitlements or advisability. They must know the differences between "bankruptcy" and "wage earner plans" in order to prevent infringement on the rights of the individual.

(f) *Pub. L. 95-109.* Pub. L. 95-109 provides that contact by a debt collector with third parties, such as commanding officers, is prohibited without the prior consent of the debtor, or without a court order. Creditors are generally exempt from Pub. L. 95-109, but only when they collect on their own behalf.

§ 818.3 Dependent support.

The Air Force expects its members to provide regular and adequate support, either direct or in kind, based on the needs of the dependents and the ability of the member to provide. The Air Force has no authority to unilaterally deduct money from a member's pay for the benefit of dependents; however failure to comply with Air Force policy becomes a proper subject of command consideration for disciplinary or administrative action.

(a) *Basic Allowance for Quarters (BAQ).* Under the provisions of the DOD Military Pay and Allowances Entitlements Manual (DODPM), paragraph 30236c, BAQ is not payable for a dependent whom a member refuses to support. Members are informed of this provision and advised that refusal or failure to support dependents may require administrative termination of BAQ entitlement, at the "with dependent" rate, effective the first day of the month a complaint is received and has been determined valid. The BAQ is not intended to be an accurate measure of adequate dependent support nor does the administrative termination of the BAQ relieve a member of the responsibility to provide dependent support.

(b) *Garnishment.* In accordance with 42 U.S.C. 659, the Air Force complies with valid garnishment or attachment orders issued by Federal or State courts of competent jurisdiction for enforcing child support and alimony obligations of military members. The State law that applies for such proceedings determines the legal procedure to be used by plaintiffs and the extent to which the primary defendant's pay will be affected. Any challenge to the jurisdiction of the court or decree rests with the member, not the Air Force.

§ 818.4 Paternity.

If paternity is established either by admission or by judicial decree, Air Force members are expected to comply with dependent support policy stated in § 818.3.

(a) *Paternity Disputes.* Allegations of paternity against members who are on active duty are sent to the individual concerned by the member's commander. The Air Force has no authority to judge paternity claims made against Air Force personnel. If the parties concerned cannot arrive at a decision as to paternity, only a court of competent jurisdiction can judge the dispute.

(b) *Court Order.* If a judicial order or decree of paternity or support is rendered by a United States or foreign court of competent jurisdiction against such a member, the member is encouraged to give the necessary financial support to the child and take any other appropriate action. The Air Force has no authority to relieve personnel of court-ordered obligations. Personnel must get relief through a judicial system of competent jurisdiction.

Subpart B—Responsibilities

§ 818.5 Air Force member.

Each Air Force member is expected to keep reasonable contact with creditors and dependents in an effort to minimize inquiries, claims, and complaints that are sent to the Air Force. The obligations which follow can be diminished or relieved by order or decree of a court of competent jurisdiction.

(a) *Financial Indebtedness.* Air Force military members are expected to take care of their "just financial obligations" on time. A "just financial obligation" refers to a legal debt acknowledged by the military member in which there is no reasonable dispute as to the facts or the law; or one re-

duced to judgment that conforms to the Soldiers' and Sailors' Civil Relief Act (50 U.S.C. appendix 501, et seq.), if applicable.

(b) *Dependent Support.* Air Force members are expected to support their dependents according to Air Force policy (see § 818.3).

(1) *Spouse and Children.* Each Air Force member is expected to provide support in an amount, or of a kind, bearing a reasonable relation to the needs of the spouse and children and the ability of the member to provide. Consideration should be given to the needs of the family (for example, lodging, food, clothing, and miscellaneous needs).

(2) *Former Spouse.* Each Air Force member is expected to comply with the order or decree of a civil court of a State, territory, or possession of the United States, or the District of Columbia, requiring the payment of alimony, child support, or similar obligations. Members are expected to fully comply with orders or decrees involving the division of property arising from the termination of the husband and wife relationship.

(3) *Parents.* Each Air Force member is expected to provide support to parent (or parents) to the extent required by the statute or agreement from which the obligation arose.

(4) *Paternity.* If paternity is established either by judicial decree or by admission, each member is expected to provide the necessary finanical support to the child.

(5) *Arrearages.* Each Air Force member is expected to liquidate dependent support arrearages, whether resulting from not complying with a court order or decree or failure to provide adequate support in the past.

§ 818.6 Commanders.

Unit commanders are responsible for counseling members regarding Air Force policy (see § 818.1) responding to complaints; and keeping order and discipline by dealing with violations, especially repeated violations, and incidents of fraud or deceit through appropriate administrative or punitive means.

(a) *Counseling.* (1) Applying the Air Force policy to the facts of the situation, each member is advised of what actions are necessary to comply with the policy. First sergeants assist commanders in counseling individuals with financial problems.

(2) Commanders should encourage individuals to contact the comptroller for budget counseling, working out debt liquidation plans, obtaining consumer protection advice, etc.

(3) In paternity cases, and when requested by the member, the commander should approve leave if the parties desire to marry; no legal obstacle exists to the marriage; and paternity has been established or admitted.

(b) *Referral.* Each member is advised of the legal assistance program and of counseling available from the on-base credit union. The commander or the first sergeant should encourage the member to attend financial management seminars or workshops if they are available through the base education officer.

(c) *Administrative or Disciplinary Action.* In cases of continued financial irresponsibility, fraud, deceit, or criminal conduct, unit commanders may start administrative or disciplinary action to improve discipline and to keep the standards of conduct expected of Air Force personnel.

(1) When it is determined that administrative termination of BAQ at the "with dependent" rate is required, the member's servicing Accounting and Finance Officer (AFO) will be advised in writing. Furnish member's name, social security account number (SSAN), organization, and a statement that the member has refused or failed to support the dependents on whose behalf BAQ is being received. Cite the DODPM, paragraph 30236c, and request administrative termination of BAQ entitlement on the proper effective date (see § 818.3).

(2) Unit commanders may issue a letter of reprimand; use the Control Roster and Unfavorable Information File (UIF); take action under Uniform Code of Military Justice (UCMJ), as appropriate; or start discharge action.

(d) Response to Complainant. A complainant is entitled to a courteous response from the commander. Except in cases of nonsupport complaints, the response neither admits, nor in any

way implies, an admission of liability of the member. Neither does it report any action taken against the member as a result of the complaint. The commander does not act as intermediary for either party nor give that impression in the response.

§ 818.7 Legal assistance officer.

Generally, commanders and members faced with problems or potential problems concerning dependent support, indebtedness, or consumer protection are encouraged to seek the advice of the office of the SJA.

(a) The Legal Assistance Officer, according to Part 818b of this chapter.

(1) Explains the applications of Air Force policy as it applies to individual cases and provides guidance concerning compliance with Federal, State, and local laws (for example, chapter XIII of the Bankruptcy Act; Truth-in-Lending Act; Garnishment; and Soldiers' and Sailor' Relief Act).

(2) If appropriate, advises the member to consult with a civilian attorney or refer the member to Federal, State, or local consumer agencies (for example, the Federal Trade Commission, Better Business Bureau, and Chamber of Commerce).

(b) In general, the commander concerned should seek advice from the servicing SJA.

(c) The SJA coordinates on responses to all high-level, executive, and congressional inquiries.

§ 818.8 Director of Personnel (DP).

The DP advises commander of Air Force Policy and explains the information and education resources available to enhance management of personal finances. Additional visibility for financial management can be provided by requesting that the base library be well stocked with budgeting and money management publications, occasionally highlighted in a special display. Financial periodicals and consumer information publications would be particularly useful. The DP provides monthly statistics, furnished by the Consolidated Base Personnel Office (CBPO) Special Actions Unit, to wing, base, and unit commanders so that management action can be taken to reduce indebtedness and dependent support complaints.

(a) *CBPO Quality Force, Special Actions Unit (DPMQA).* CBPO/DPMQA processes debt and dependent support complaints according to this part. If requested by unit commanders, information in the UIF is provided by CBPO/DPMQA. Statistics showing the number of complaints processed for each unit is provided to the DP by the 10th of each month, showing the number of open cases which require further action by unit commanders and the number of cases that have resulted in information being added to the UIF.

(b) *Education Office.* If directed by the base commander, the education office may offer seminars, or at local option, lectures or workshops, on financial matters. Publicize the seminars widely before they begin and during their duration. Seminars may be led by base experts on an additional duty basis or by civilian instructors through Education Services. Scheduling of seminars could be during off-duty time or on a release-from-duty basis. Sessions are recommended for 1½ to 2 hours, once a week. If the local option is exclusively for off-duty attendance, it is recommended that the class meet once in the afternoon and once in the evening to facilitate attendance by shift workers. U.S. Air Force personnel and their spouse should be invited to attend. Attendance should be voluntary, both for the total course and individual classes, except that unit commanders may privately require attendance by military personnel who have shown financial irresponsibility. Such required attendance should be kept confidential to avoid embarassment to the individual. Repeat the seminar series as often as needed for the local environment, perhaps 3 to 4 times during the first year, and 1 or 2 times each year after that. Special seminar sessions will be scheduled to train volunteer budget counselors. Instruction should focus on such subjects as counseling techniques, budget preparation procedures, credit shopping, financial situation analysis, etc. Professional assistance in preparing lesson plans may be available from

local credit unions or other State and local associations.

§ 818.9 Comptroller (AC).

The Base Comptroller, in coordination with DP, will establish a three track Personal Financial Responsibility Program including education, information and consultant services.

(a) AC will coordinate with the education office to establish courses. See § 818.8(b).

(b) AC will solicit information articles and COST Fact Sheets for local distribution and publication in base media. See § 818.10.

(c) The Base Comptroller will establish a consultant function at base level to assist personnel in analyzing problem areas, developing budgets, formulating debt liquidation plans, obtaining consumer protection advice, etc.

(1) Military members will be solicited to serve as volunteer counselors on a voluntary, part-time basis. The base Junior Officer Council should be an excellent source of volunteer counselors.

(2) Counselors will attend training seminars sponsored by the base education office prior to their assumption of any consultant duties.

(3) The consultant program should emphasize voluntary contact and participation, although members may be referred for assistance by commanders, first sergeants or supervisors. Emphasis should be placed on the preventive nature of the program—that is, identification and resolution of financial questions before they become serious problems and prevention of existing difficulties from recurring. One contact may be sufficient, or a series of counseling sessions may be required. Spouses should be encouraged to attend these sessions whenever possible to secure their full understanding and commitment to resolution of the problem.

(4) The consultant should work jointly with the counselee(s) to analyze each financial situation, pinpoint problem areas, formulate a budget and, if required, a proposed payment plan. The member must be an equal participant in this effort; personal commitment to a realistic budget is an essential element for sucessful resolution of any financial problem. The counselor may assist the member in contacting creditors, but must ensure that all creditors are aware that neither the Air Force nor the consultant service will assume liability for debts or collect payments.

(d) AFO. The AFO advises members on dependent support allotment procedures (for example, payment of rent IAW DODPM, paragraph 60202), entitlement to BAQ. Procedures involving garnishment of pay are coordinated with SJA. The AFO also advises members on the procedures and relative merits of the participation in the Checks to Financial Organization (CTFO) Program.

§ 818.10 Office of Information (OI).

The OI reviews and edits locally developed COST Fact Sheets and "Inflation Fighters" articles. Outstanding items which have wide application should be distributed for reprint through the Air Force news Service.

§ 818.11 Air Training Command (ATC).

ATC includes a comprehensive block of instruction on personal commercial affairs in its basic military training program, undergraduate pilot and navigator training, and other courses in which personnel receive initial active duty training. Such instructions include, but are not limited to, the protection and remedies offered consumers under the Truth-in-Lending Act, insurance, Government benefits, CTFO, savings and budgeting, the policies of this part, Part 818a of this chapter, and the desirability of seeking legal counsel before making any substantial loan or credit commitments.

Subpart C—Procedures

§ 818.12 Processing indebtedness complaints.

Processing debt complaints by CBPO/DPMQA is not extended to creditors who have not made a bona fide effort to collect the debt directly from the military member, whose claims are patently false and misleading, or are in violation of State laws concerning usury and debt collection

practices. Claimants desiring to contact a military member about an indebtedness may write to the Air Force Worldwide Locator, HQ AFMPC/MPCD003, Randolph AFB TX 78148, enclosing $2 for the service as provided in Part 806 of this chapter.

(a) *Armed Forces Disciplinary Control Board.* If a complainant appears to have engaged in usurious, fraudulent, misleading, or deceptive business practices, the commander reports the situation to the Armed Forces Disciplinary Control Board according to AFR 125-11, Armed Forces Disciplinary Control Board and Off-installation Military Enforcement.

(b) *Denial of the Processing Privilege.* Processing complaints are permanently denied by AFMPC/MPCAS if: a complainant has been notified of the requirements of this part and refuses or repeatedly fails to comply with them; or if a complainant (no matter what the merits of the claim) has clearly shown that there is an attempt to make unreasonable use of the processing privilege. Abuses are documented and reported by the CBPO to HQ AFMPC/MPCAS, Randolph AFB TX 78148. AFMPC advises all CBPOs of complainants who have been denied further processing privileges.

§ 818.13 General requirements for accepting debt complaints.

Requirements in this section do not apply to claims by Federal, State, or Municipal Government, nor to those creditors not otherwise subject to Regulation Z, the Board of Governors of the Federal Reserve System, 12 Code of Federal Regulations (CFR) 226 (for example, grocery stores, utilities, etc.).

(a) Full Disclosure and Standard of Fairness:

(1) The Truth-in-Lending Act (15 U.S.C. 1601, et seq.) prescribes the general disclosure requirements which must be met by those offering or extending consumer credit, and Regulation Z, published by the Federal Reserve Board (12 CFR Part 226), and the specific disclosure requirements for both open-end and installment credit transactions. Instead of Federal Government requirements, State regulations apply to credit transactions if the Federal Reserve Board determines that the State regulations impose substantially similar requirements and provide adequate enforcement measures.

(2) Banks and credit unions operating on military installations must conform to the Standard of Fairness stated on page 1 of AF Form 459, Application/Contract for Personal Credit, before executing the loan or credit agreement.

(b) Certification of Compliance:

(1) Creditors subject to Regulation Z of the Federal Reserve Board (12 CFR Part 226), and assignees claiming thereunder, must send with their request for debt processing assistance on executed copy of the Certificate of Compliance and a true copy of the general and specific disclosures provided the military member as required by Pub. L. 90-321 (15 U.S.C. 1601). Requests which do not meet these requirements will be returned without action to the claimant.

(2) A creditor not subject to Regulation Z (for example, grocery stores, utilites, etc.), must send with their request for assistance a certification that neither interest, finance charge, nor other fee is in excess of that permitted by the law of the State in which the obligation was incurred.

(3) A foreign-owned company having a complaint must send with its request a true copy of the terms of the debt (English translation) and must certify its subscription to the Standards of Fairness, AF Form 459, page 1.

(c) Previous Efforts To Resolve the Matter. The complainant must show that an attempt has been made to adjust the debt by direct contact with the member.

(d) Nonconforming Complaints. Debt complaints that do not comply with the requirements of this subpart are returned to the complainant with an explanation of the deficiency. Complainants are advised to send their claim in writing.

§ 818.14 Action required if complaint is received.

(a) CBPO special actions unit (CBPO/DPMQA), on receipt:

(1) Sends a debt complaint that meets the requirement of § 818.13 to

the immediate commander of the individual concerned.

(2) Returns a debt complaint that does not meet the requirements of § 818.13 to the complainant.

(3) Sends dependent support and paternity complaints to the immediate commander of the individual concerned along with information recorded on the member's DD Form 93, Record of Emergency Data.

(4) Returns all complaints concerning a retired member or an individual with no known military status to the complainant.

(5) Sends all complaints concerning a member released from active duty and assigned to the Reserve Forces to the Air Reserve Personnel Center (ARPC), 7300 E First Avenue, Denver, CO 80280, and advises the complainant of the referral.

(6) Sends all complaints concerning a reassigned member to the current unit of assignment and advises the complainant of the referral.

(b) The commander on receipt of the complaint:

(1) Direct from the complainant, sends the complaint, if other than a paternity or dependent support claim, to CBPO/DPMQA for action under 818.13 and this paragraph.

(2) From CBPO/DPMQA, thoroughly reviews all the available facts surrounding the transaction forming the basis for the complaint. These facts may be obtained from the complainant's correspondence and the member concerned. Privacy Act warnings and Article 31, UCMJ rights, if appropriate, should be given. A review should be made of the member's financial situation over the period in which the obligation is complained.

(3) If it has been determined that an inquiry should be made part of the UIF, AFR 35-32, Unfavorable Information Files and Control Rosters, paragraphs 4 and 7 apply.

(4) Provides CBPO/DPMQA a copy of replies to all complaints.

§ 818.15 Responding to dependent support and indebtedness complaints.

Unit commanders respond to all complainants advising them of the appropriate Air Force policy and that the member has been advised accordingly. Except in complaints of nonsupport, commander's response does not undertake to arbitrate any disputed debt or allegation, or to admit or deny the validity of the claim. Under no circumstances does it indicate whether any action has been taken against the member as a result of the complaint. Commanders provide a copy of the response to CBPO/DPMQA.

§ 818.16 Responding to paternity claims.

(a) *Active Duty Members.* The member should be informed of the inquiry and the response and urged to obtain legal assistance for guidance (including and explanation of sections of the Soldiers' and Sailors' Civil Relief Act, 50 U.S.C. App 501, et seq, if appropriate). When a communication is received from a judge of a civilian court concerning the availability of personnel to appear at an adoption hearing, where it is alleged that an active duty member is the father of an illegitimate child, then the reply shall state that:

(1) Due to military requirements, the member cannot be granted leave to attend any court hearing until (*date*), or

(2) A request by the member for leave to attend an adoption court hearing on (*date*), if made would be approved, or

(3) The member has stated in a sworn written statement that he is not the natural parent of the child, or

(4) Due to the member's unavailability caused by a specific reason, a completely responsive answer cannot be made.

(b) *Members Not on Active Duty.* Allegations of paternity against members of the Air Force who are not on active duty are sent to ARPC, 7300 E First Avenue, Denver, CO 80280, and the complainant advised of the referral. If the member is a mobilization augmentee, ARPC sends the complaint to the commander for inquiry, counseling, and reply. ARPC handles other complaints by direct contact with the member in the same manner as active duty members.

(c) *Former Members and Retired Personnel.* When allegations of paternity against former members of the Air

Force (or a communication from a judge of a civilian court concerning the adoption of an illegitimate child) are received, the claimant must be informed of the date of discharge and advised that the individual concerned is no longer a member of the Air Force and therefore is not under their jurisdiction. In addition, the last known address of the former member must be furnished to the requestor when there is a showing of compelling circumstances affecting the health or safety of an individual, as contemplated by the Privacy Act of 1974, 5 U.S.C. 552a(b)(8), and if the request is supported by a certified copy of either:

(1) A judicial order or decree of paternity or support rendered against a former member by a United States or foreign court of competent jurisdiction; or

(2) A document which establishes that the former member has made an official admission or statement acknowledging paternity or responsibility for support of a child before a court of competent jurisdiction, administrative or executive agency, or official authorized to receive it; or

(3) A court summons, judicial order, or similar document of a court within the United States in a case concerning the adoption of an illegitimate child; wherein the former serviceman is alleged to be the father; or

(4) In cases where the claimant, with the corroboration of a physician's affidavit, alleges and explains an unusual medical situation which makes it essential to get information from the alleged father to protect the physical health of either the prospective mother or the unborn child.

§ 818.17 Bad check procedures.

The commander responds to all dishonored check complaints. If the commander receives a complaint of a check which is:

(a) *Dishonored Through Inadvertency.* When advised of a check which is not honored because of bank or Government error, because of failure to date the check, incompatibility or illegibility of amounts shown on the check, or lack of or illegible signature, the commander counsels the member to redeem the check within 5 days of notification of dishonor. If redeemed, no further administrative action by the commander is required.

(b) *Dishonored Through Suspected Criminal Conduct.* When advised of a check which is dishonored because of a suspected criminal conduct by the member, the commander requests the member's UIF, consults with SJA, and counsels the member regarding Air Force policy (see § 818.2(c)). When there is suspected criminal conduct by a member involving a check, the commander should consider action under the UCMJ, or administrative action, whichever is proper. The commander advises the CBPO and responds to the complainant.

(c) *Returned for Other Reasons.* A check which is returned for other reasons such as negligence in maintaining funds in the account or failure to keep the checking account records accurate may be the basis for administrative action. When advised of a dishonored check of this type, the commander requests the member's UIF, consults with SJA, and counsels the member regarding Air Force policy (see § 818.2(c)), and responds to the complainant.

(d) *Checks Written by Dependents.* A dishonored check issued by a dependent is not processed under this part unless the SJA determines that it represents a debt for which the military member may be held personally liable (for example, checks written for necessaries). If the military member may be held liable for the check, it will be treated as an indebtedness under this part.

§ 818.18 High-level inquiries.

When an inquiry is received from AFMPC, the unit commander counsels the member on the standards and procedures of § 818.1. For inquiries which the immediate commander responds to the complainant, the reply must include a statement of Air Force policy that applies to the situation and a statement of the position taken by the member. For inquiries requiring AFMPC response the commander uses the items in paragraphs (a) through (g) of this section as a guide and furnishes appropriate information to

AFMPC. Should an item not apply to the inquiry, state "not applicable."

(a) If a court order or decree is involved, advise requirements of the court order or decree and whether the member is complying with it. Where court order exists, unit commanders should seek advice of the servicing SJA before replying.

(b) If applicable, advise the way in which support or debt payments have been made, including amount, method, and dates payments were furnished. Also advise the way in which future support or debt payments will be made, including amount and method of payment (for example, personal check, money order, allotment, etc.). If payments are made by allotment, give effective date of first payroll deduction and advise when complainant may expect to receive first allotment check.

(c) If member acknowledges arrearages in support or debt payments, advise what action member has taken or will take to liquidate arrearages, including amounts and dates payments will be made.

(d) Advise if member agrees or refuses to release information protected by the Privacy Act of 1974 (Part 806b of this chapter).

(e) The member's actions must comply with Air Force policy as stated in § 818.1.

(f) Include name of commander, unit address, and base telephone extension.

(g) Is member drawing BAQ (at the "with dependent" rate)?

§ 818.19 Certificate of compliance.

See 32 CFR Part 43a.10.

§ 818.20 Standards of fairness.

See 32 CFR, Part 43a.9.

PART 818a—PERSONAL COMMERCIAL AFFAIRS

Subpart A—Introduction

Sec.

818a.1 Purpose.
818a.2 References.
818a.3 Terms explained.
818a.4 Requirements.
818a.5 The accreditation program.
818a.6 Use of the allotment system for paying life insurance premiums.

Subpart B—Life Insurance

818a.7 Policy on soliciting.
818a.8 Solicitation practices that are prohibited.
818a.9 Revoking on-base solicitation privileges.
818a.10 Individual responsibilities for revoking or suspending on-base solicitation privileges.
818a.11 Action by the installation commander to revoke or suspend these privileges.

Subpart C—Private Commercial Solicitation on Air Force Installations

818a.12 Management training by the Air Training Command (ATC).
818a.13 Management training provided by installation commanders.

Subpart D—Personal Commercial Management Training

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SOURCE: 43 FR 58088, Dec. 12, 1978, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation 211-16, September 7, 1978.

Subpart A—Introduction

§ 818a.1 Purpose.

This part sets policy for private commercial solicitation and sales on Air Force installations. It is designed to safeguard and promote the welfare and interests of military personnel as consumers. It requires commanders to be sure that all commercial soliciting, and selling of all types of insurance and other goods, services, and commodities are monitored and controlled. This rule applies to all Air Force installations. It implements DODD 1344.1, August 31, 1977, and 1344.7, July 1, 1969.

§ 818a.2 References.

(a) Part 806 of this chapter.

(b) AFR 34-3, Morale, Welfare, and Recreation Basic Responsibilities, Policies, and Practices.

(c) AFR 34-3, Vol. II, Private Organizations.

(d) Part 818 of this chapter.
(e) AFR 40-735, Employee Responsibility and Conduct.
(f) Part 818b of this chapter.
(g) AFR 110-27, Preventive Law Program.
(h) AFR 145-15, Armed Services Commissary Store Regulation.
(i) AFR 147-7, Exchange Service, General Policies.
(j) Regulation Z of the Federal Reserve Board.
(k) Federal Personnel Manual.

NOTE: Part 806 of this chapter states the basic policies and instruction governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 818a.3 Terms explained.

(a) *Agent.* An individual who is paid or compensated as a sales person for an insurer (insurance company or association).

(b) *Association.* An organization, whether or not the word "association" is in its title, which:

(1) Is made up of, and serves exclusively, members of the Armed Forces of the United States and their dependents. This includes members on active duty, Reserve duty, retired, or persons who joined any of these organizations while on active duty or in the Reserves; and

(2) Has a life insurance plan, either as part of the membership dues or as a separately bought plan. These plans are bought through an insurance carrier or the association as a self-insurer, or both.

(c) *DOD Personnel.* All officers and enlisted members, and civilian employees of the Armed Forces. This includes government employees of all the offices, agencies, and departments on a defense installation, including nonappropriated fund instrumentalities (NAFIs).

(d) *Insurance Carrier.* An insurance company that sells insurance through an association or by reinsuring or coinsuring such insurance.

(e) *Insurance Policy.* A policy or certificate of insurance issued by an insurer, or evidence of insurance coverage issued by a self-insured association.

(f) *Insurer.* Any company or association selling insurance.

(g) *Solicitation.* (1) The conduct of private business, including offering and selling insurance on an Air Force base. Such private business or soliciting is a privilege not a right. Its control is a responsibility of the installation commander.

(2) The term does not apply to resident services such as milk delivery, laundry services, regular newspaper deliveries, as authorized by the commander.

(h) *States.* The 50 political jurisdictions of the United States, the District of Columbia, the Territories, and possessions of the United States.

Subpart B—Life Insurance

§ 818a.4 Requirements.

(a) An agent must identify him or herself as an agent for a specific insurance company when acting in that capacity on an Air Force installation.

(b) Insurance policies offered and sold on an Air Force installation must:

(1) Comply with the insurance laws where the Air Force installation is located, including foreign countries.

(2) Show on the face of the policy any restrictions by reason of military service or Air Force job specialty.

(3) Show on the face of the policy any extra premium charges based on military service or Air Force job specialty.

(4) Show on the face of the policy any variation in the amount of death benefit or premium based on the length of time the policy has been in force.

NOTE: The above does not include certificates or other evidence of insurance issued by a self-insured association. To comply with paragraphs (b) (2), (3), and (4) of this section, a stamp or "flag" must be used to draw the attention of the policyholder to the extra premium information, or to any variation in death benefits because of the length of time the policy has been in force.

(c) Variable life insurance policies may be sold if they meet the criteria of the appropriate insurance regulatory agency (State or country) and the Securities and Exchange Commission (SEC).

(d) Premiums must show the actual premiums payable for life insurance coverage.

§ 818a.5 The accreditation program.

(a) Any life insurance company is automatically accredited in the states if it is licensed under the laws of the state where the installation is located.

(b) Many military-oriented associations offer various insurance plans to military personnel. Some, however, are not organized within the supervision of insurance laws of either the Federal or State governments. While some are organized for profit, others function as nonprofit organizations under Internal Revenue Service (IRS) regulations. Regardless of the manner in which insurance plans are offered, all associations must comply with this part.

(c) Soliciting on overseas installations is done under the regulations issued by the unified or specified command having authority in the area.

§ 818a.6 Use of the allotment system for paying life insurance premiums.

(a) Allotments of military pay for life insurance premiums must be made according to the DOD Military Pay and Allowances Entitlements Manual. Allotments are not made out to an insurer for a commingled sale such as retirement plans or securities.

(b) For members in pay grades E-1, E-2, and E-3, at least 7 days should elapse between the signing of a life insurance application and the starting of an allotment. This is a "cooling off" time to reconsider the insurance purchase.

Subpart C—Private Commercial Solicitation on Air Force Installations

§ 818a.7 Policy on soliciting.

(a) Soliciting on an installation is permitted when:

(1) The installation commander has not prohibited it.

(2) The solicitor has been specifically invited by someone who lives on the base to that person's home or other place approved by the installation commander.

(3) The solicitor is duly licensed.

(b) All agents may solicit if they meet the requirements of this part.

(c) DOD personnel may not act in an official or business capacity, either directly or indirectly, as a liaison with agents.

(d) Advertisements in unofficial military publications must observe the highest business ethics in describing goods, services, and commodities and the terms of sale. Credit term advertising must conform to the Truth-in-Lending Act as implemented by Regulation Z of the Federal Reserve Board.

(e) A sign on solicitation restrictions must be posted in such form and place as to give notice to all persons entering an Air Force base.

(f) Canvassing, soliciting, and peddling to Air Force civilian employees is governed by AFR 40-735.

§ 818a.8 Solicitation practices that are prohibited.

(a) Making appointments with, or soliciting, personnel who are in an "on-duty" status.

(b) Procursing or supplying rosters or lists for commercial solicitation, except as required or authorized by Part 806 of this chapter and the Federal Personnel Manual, Chapter 294.

(c) Offering unfair or deceptive inducements to buy or trade.

(d) Using any manipulative, deceptive, or fraudulent device, scheme, or artifice, including misleading advertising and sales literature.

(e) Practices involving rebates to help make sales or to eliminate competition. (Credit union interest refunds to borrowers are not a prohibited rebate.)

(f) Oral or written representation which suggests that the DOD or any of its components sponsor a company, its agents, or its goods or services.

(g) Any breach of warranty or contract not promptly adjusted on demand.

(h) Soliciting a "mass" or "captive" audience.

(i) Use of official identification cards by retired or Reserve members to gain access to an Air Force base for soliciting.

(j) Soliciting by a military member of another member who is lower in grade.

(k) DOD personnel may not represent or deal directly or indirectly with any private company or business as an agent for commercial soliciting on a military installation.

(l) The use of an agent to take part in military sponsored insurance education or orientation programs. This includes representatives of associations, unless they are free from self-serving interest or emphasis, direct or indirect.

(m) Agents assuming or using titles such as "Squadron Insurance Counselor," "Unit Insurance Advisor," or "SGLI Conversion Consultant."

(n) Assigning desk space for an interview for other than a specific prearranged appointment. During this appointment, the agent must not display desk or other signs.

(o) Using base bulletins or any other notice, official or unofficial, announcing an agent and his or her availability.

(p) Distributing, or availability for distributing, literature other than to the person being interviewed.

(q) Doing business in dormitory areas. Based commanders must designate an appropriate area, such as the Family Service Center, for use by the service members.

(r) Use of any portion of base facilities, to include quarters, as a showroom or store for the sale of goods or services, except as specifically authorized by:

(1) AFR 34-3.

(2) AFR 34-3, Vol. II.

(3) AFR 145-15.

(4) AFR 147-7.

NOTE: This provision does not preclude normal home enterprises that comply with this part, and with applicable State and local laws.

(s) Advertisements citing addresses or telephone numbers of commercial sales activities conducted on the base.

(t) Soliciting of persons on the base who are not residents of the base.

§ 818a.9 Revoking on-base solicitation privileges.

The privilege of on-base solicitation may be denied for any of the following reasons, provided the offender is given written notice:

(a) Violating any provision of this part.

(b) Substantiated complaints or reports on the quality of goods or services, or the manner in which they were sold.

(c) Knowing and willful violations of the Truth-in-Lending Act as implemented by Regulation Z of the Federal Reserve Board, or any similar State or local law, ordinance, or regulation.

(d) Knowing and willful violations of the Uniform Code of Military Justice (UCMJ) or Title 18, United States Code.

(e) Failure to incorporate the Standards of Fairness in every contract of sale made on the base, as required by Part 818 of this chapter.

(f) Possession of, or any attempt to obtain, supplies of allotment forms.

§ 818a.10 Individual responsibilities for revoking or suspending on-base solicitation privileges.

Any information that might be grounds for revoking or suspending soliciting privileges must be reported to the CBPO/DPMAP, who will notify the base commander through personnel channels. (If there is no CBPO, the base commander will designate an office or officer to do this.)

§ 818a.11 Action by the installation commander to revoke or suspend these privileges.

(a) *Suspension of soliciting privileges.* This is done by the base commander, pending an investigation and "show cause" action.

(1) A suspension is for 30 days or less. Any exceptions to this must be approved by HQ AFMPC/MPCASC, Randolph AFB, TX 78148 (AUTOVON 487-3996). ("Show cause" means the grieved party has the right to show facts on his or her behalf. This may be done on an informal basis.)

(2) The suspension must be in writing and sent by certified mail.

(b) *Revocations.* (1) The base commander may close the case without action and tell the complainant of the reason. The commander must offer (in writing) the accused a chance to show

cause why his or her on-base soliciting privilege should not be revoked. This written notice must describe the alleged violation and offer the alleged offender the opportunity to rebut or mitigate the violation, either in person or in writing.

(2) If the alleged offender fails to respond, rebut, or mitigate the alleged violation, the commander will advise this agent (in writing) that his or her privilege to solicit on the installation has been revoked.

(i) Revocation must be for a reasonable time, but not for more than 1 year.

(ii) The commander determines whether to limit the revocation to the agent alone, or to extend it to the company he or she represents. (If the solicitor has not been licensed by civil authority, or if the license has been withdrawn, the period of revocation must be at least equal to the unlicensed period.)

(iii) A notice of revocation must be in writing and sent in person or by certified mail, return receipt requested.

(3) Revocation is published in the base bulletin. A list of individuals whose privileges have been revoked must be published at least once every 6 months.

(4) When the commander believes the offender may be soliciting on other military installations, he or she must tell the commanders of the other installations of the action taken.

(i) If warranted, the commander makes a recommendation to AFMPC/DPMASC, Randolph AFB, TX 78148, that the action be extended to additional Air Force installations.

(ii) If approved, the order may be extended to the other military departments by the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics).

Subpart D—Personal Commercial Management Training

§ 818a.12 Managment training by the Air Training Command (ATC).

ATC gives comprehensive instructions on personal commercial affairs in its basic military training program. The same instruction is given at undergraduate pilot or navigator training, and other courses where personnel get initial active duty training.

§ 818a.13 Management training provided by installation commanders.

Installation commanders must set up information and education programs to help members conduct their personal commercial matters.

(a) These programs should include information about the protection and remedies offered under the Truth-in-Lending Act and Regulation Z of the Federal Reserve Board. They should also cover government benefits, savings, budgeting, commercial insurance, and the following Air Force regulations: 35-18, 110-22, and 110-27.

(b) The base credit union, bank, and other nonprofit organization may be used to help set up the program.

(c) Commercial agents (including loan and finance companies and their associations) may not be used in this program. However education programs and materials prepared by outside organizations may be used provided they are entirely educational, and are free of advertising, applications, and contracts.

PART 818b—LEGAL ASSISTANCE PROGRAM

Sec.

818b.0 Purpose.
818b.1 Program responsibilities.
818b.2 Persons entitled to legal assistance.
818b.3 Legal assistance services provided.
818b.4 Limitation on services.

AUTHORITY: 10 U.S.C. 8012.

SOURCE: 38 FR 26801, Sept. 26, 1973, unless otherwise noted.

§ 818b.0 Purpose.

(a) This part prescribes an Air Force-wide legal assistance program whereby all military personnel, their dependents, and certain civilian personnel may obtain competent advice and assistance in resolving personal civil legal problems.

(b) Part 803 of this chapter states that basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain

copies of the material referenced herein.

§ 818b.1 Program responsibilities.

(a) Responsibility for the efficient and proper functioning of the legal assistance program within the Air Force extends to all commands.

(b) Under the Chief of Staff, United States Air Force, staff supervision of the legal assistance program is assigned to The Judge Advocate General of the Air Force. He maintains liaison with the American Bar Association and other civilian bar organizations that he deems advisable.

§ 818b.2 Persons entitled to legal assistance.

(a) Services provided for in this part are given to the following personnel and their dependents:

(1) All members (including those confined in foreign penal institutions) on active duty with the Armed Forces of the United States, including the United States Coast Guard.

(2) Members of Allied Armed Forces serving in the United States, or its possessions. (The Judge Advocates General of the United States and the Canadian Forces have informally agreed that personnel of their respective establishments will render legal assistance to the members of the other's forces while such members are performing military duties in their country.)

(b) To the extent personnel and facilities are available, extend legal assistance to:

(1) Retired Regular and retired Career Reserve personnel of the United States forces and their dependents.

(2) Dependent survivors of military personnel, including those retired.

(3) Civilian employees of United States Armed Forces at an isolated installation or an installation in a foreign area.

§ 818b.3 Legal assistance services provided.

Personnel rendering legal assistance under the program will do the following:

(a) After proper consultation with their client, they will give advice, assistance, and counsel on all personal civil legal problems.

(b) Normally, they will refer cases involving specialized areas of law—such as trusts, deeds, complicated wills, estate planning, mortgages, etc.—as provided in paragraph (d) of this section. Such cases will only be handled by legal assistance personnel when the staff judge advocate determines that workload and experience level permit.

(c) Due to the severe difficulty in locating witnesses to wills, all wills executed should have the name of the witness printed or typed below his signature, along with his social security number and the most permanent mailing address possible.

(d) When proper, a client seeking legal assistance on legal matters beyond the scope and availability of activities of the legal assistance program will be referred to a lawyer of the client's choice, or to such bar organizations as may be available and appropriate, for advice and action.

(1) Insofar as practicable, the client will be advised to consult his usual civilian attorney.

(i) If, for any reason, this is impracticable or not desired by the client, he may be referred to a cooperating bar organization for assistance in retaining competent counsel.

(ii) As a temporary measure in the absence of an organized local bar, or upon failure of the local bar association to set up a committee or designate an individual to accept referrals, the legal assistance officer will prepare a list to be used for referral of local attorneys who have evidenced through their previous handling of servicemen's cases a willingness to give prompt and careful attention to such cases. Except under the most unusual circumstances, and then only with advance permission of his staff judge advocate, will a legal assistance officer refer clients to a list of less than three civilian attorneys or to a named civilian attorney.

(iii) In overseas commands, the senior staff judge advocate serving in a foreign country, if deemed appropriate after consultation with appropriate consular officials and any cooperating local or national bar association or

similar agency, will prepare a list of local civilian attorneys which may be used as set out in this section.

(2) Indigent clients needing civilian counsel are referred to the appropriate legal aid organization or representative of the local bar designated to handle such referrals.

NOTE: Once a civilian attorney has been retained, the legal assistance officer, as required by professional ethics, will refrain from advising the client on that particular matter.

(e) In domestic relations cases, the problem should be fully explored, with the objective of preventing separation and divorce. With the knowledge and consent of both parties, both parties may be consulted without impropriety and advised of their legal rights and obligations to each other, their children, and society.

(f) On complaints of discrimination, complainant should be advised concerning:

(1) Application of the Civil Rights Act of 1964;

(2) Procedures as set forth in pertinent Air Force regulations for processing such complaints; and

(3) Rights of individuals to pursue remedies through civilian channels without recourse to procedures prescribed in Air Force regulations.

§ 818b.4 Limitation on services.

Legal assistance is limited to services furnished to the client, such as advice, preparation of documents, etc. Legal assistance personnel, in such capacity, will not:

(a) Appear in person or by pleadings before domestic or foreign civil courts, tribunals, or Government agencies, unless authorized pursuant to AFR 110-3 (Taxation, Legal and Administrative Actions, and Legal Process) or by the Office of The Judge Advocate General, nor before courts-martial or military board proceedings.

(b) Sign letters on his client's behalf without the express permission of the client concerned and the staff judge advocate.

(c) Receive confidences in any case in which the person requesting assistance is or probably will be the subject of civilian criminal action (except minor traffic violations), nor offer him any assistance regarding such case other than to advise him that:

(1) As the legal assistance program is limited to civil (as distinguished from criminal) legal problems, legal assistance personnel (as such) may not receive confidences relating to such matters.

(2) He has a right to consult civilian counsel.

(3) He will follow § 818b.3(d), in the event referral assistance is requested.

(d) [Reserved]

(e) Receive confidences in any case in which the person requesting assistance is or probably will be the subject to courtmartial investigation or charges, other disciplinary action, or administrative board proceedings, unless the staff judge advocate has determined that the legal assistance officer is available to enter into an attorney-client relationship with and to serve as military counsel for the individual seeking assistance. As soon as a legal assistance officer ascertains that the request for assistance involves a matter within the scope of this section, he advises the individual in accordance with § 818b.3(d)(1) through (d)(3) and, further, that he may receive advice as to his rights to military counsel from the staff judge advocate. With the concurrence of the staff judge advocate, the legal assistance officer himself may furnish the individual with the appropriate advice concerning his rights to military counsel. An individual who is entitled to military counsel and who requests that such counsel be appointed for him will be assisted in establishing contract with a lawyer whom the staff judge advocate determines is available to serve as counsel.

(f) Receive confidences nor assist in regard to official or military problems since they are not within the scope of the Legal Assistance Program. Such problems are generally within the jurisdiction of other staff offices or Federal agencies, and the individual will be referred to the appropriate staff office or agency, or given such information or advice as the staff judge advocate determines appropriate as a staff function.

(g) Make available, on matters arising from or connected with business

endeavors or outside employment, any legal assistance services other than advice on relief afforded by the Soldiers' and Sailors' Civil Relief Act and referral to a civilian attorney, as provided herein.

(h) Act as a collection agency or lend aid to defeat the fair collection of any just debt or obligation. However, he may advise clients as to their legal liability for a debt or legal remedies for the collection of a debt, or refer them to civilian counsel for such advice. If appropriate, he should also counsel clients as to the Air Force's policy with regard to private indebtedness (Part 818 of this chapter) and the conditions under which the Air Force may extend assistance to creditors in the collection of debts from its members. All official correspondence is handled outside the legal assistance program as a command function in accordance with prescribed Air Force directives.

NOTE: With express consent of the client, complaints of unfair business practices which appear to be valid will be referred to the local commander for processing.

PART 819—PROVIDING ENVIRONMENTAL SERVICES TO NONMILITARY AGENCIES AND INDIVIDUALS

Sec.

819.1 Purpose.
819.2 Basic policy for providing meteorological support.
819.3 AWS Support to nonmilitary agencies.
819.4 Approval authority for support to nonmilitary agencies.
819.5 Reimbursement for meteorological support.
819.6 Exchange of meteorological data.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: 44 FR 28801, May 17, 1979, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation AFR 105-9, November 17, 1978.

Part 806 of this chapter states the basic policies and instruction governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material references herein.

§ 819.1 Purpose.

This part defines the conditions under which the Air Force provides meteorological support to nonmilitary agencies and private individuals. It applies to Air Force activities that have an interest in providing Air Force meteorological support to civilians.

§ 819.2 Basic policy for providing meteorological support.

(a) The Department of Commerce, to the maximum extent practicable and permitted by law, will provide the basic meteorological services needed to meet the requirements of the general public.

(b) Air Weather Service (AWS) provides or arranges for staff and operational weather service for the Air Force under AFR 23-31, and for the Army under AFR 105-3/AR 115-10, designated unified or specified commands, and other agencies as directed by the Chief of Staff, United States Air Force.

(c) AWS also provides day-to-day weather support to:

(1) Civilian airlines using a facility where the AWS unit has been designated the International Civil Aviation Organization (ICAO) Meteorological Office.

(2) Civilian contractors who may request weather information in support of their work effort provided:

(i) They are located on a military facility; or

(ii) They are operating a government-owned facility where AWS has established support responsibility to the contractor host; and

(iii) The criteria in § 819.3 are met.

§ 819.3 AWS support to nonmilitary agencies.

(a) AWS may provide support to nonmilitary agencies or persons provided the following criteria are met:

(1) The national agency responsible for providing the support asks AWS to provide it.

(2) The support will not impair unit mission.

(3) The support will not require additional resources or the user agrees to reimburse the Air Force for the cost of the additional resources.

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(4) The recipient is advised that the Air Force will not assume any legal, financial, or moral responsibility for the service provided.

(b) HQ USAF/RDP will provide an expression of Air Force research and development interest if AWS support is needed for a federal research and development project.

§ 819.4 Approval authority for support to nonmilitary agencies.

(a) Providing the criteria in § 819.3 are met, AWS units may approve a written request for nonrecurring support that involves the release of local weather information obtained by reproduction of extraction from local records or climatological documents. AWS units may also approve a written request for recurring support that involved the release of local weather information which can be obtained by reproduction of extraction from local records or climatological documents.

(b) Other requests not covered above should be referred to HQ USAF/XOOTF. Air Force elements should inform HQ USAF/XOOTF of any situation they believe would be in the Air Force interest to furnish meteorological services not otherwise authorized by this part. HQ USAF/XOOTF will evaluate each request to determine Air Force policy on providing the support and assign a prority if necessary.

NOTE: Support may be furnished without regard to any of the limitations listed above in an emergency when the support is required to avert or lessen the loss of life, personal injury, or property damage.

§ 819.5 Reimbursement for meteorological support.

If appropriate, charges for support will be made according to DOD Manual 4000.19-M (available as shown in AFR 0-4, Department of Defense Joint Chiefs of Staff & Interservice Publications and AF Acquisition Documents).

§ 819.6 Exchange of meteorological data.

This part is not intended to affect or inhibit the normal exchange of meteorological data between the Air Force and other United States Federal or foreign national agencies.

PART 819a—AVIATION FUEL AND OIL ISSUES TO CONTRACT, CHARTER, AND CIVIL AIRCRAFT

Sec.

819a.0 Purpose.
819a.1 Explanation of terms.
819a.2 How to recognize contract, charter, and civil aircraft.
819a.3 Determination of authorized sales and price of aviation fuel and oil.
819a.4 Air Force fuel and oil sales policy for contract, charter, and civil aircraft.
819a.5 Surcharging sales to charter aircraft.
819a.6 Prices to charge.
819a.7 Establishing credit for USAF fuel and oil.
819a.8 Procedures for renewing credit.
819a.9 Emergency credit procedure.
819a.10 Credit revocation.
819a.11 Billing and collecting.
819a.12 Federal Excise Taxes (FETs).
819a.13 When to charge taxes.
819a.14 Computing taxes imposed according to § 819a.13.
819a.15 HQ USAF responsibilities.
819a.16 Responsibilities of the MAJCOMs.
819a.17 Responsibilities of SA-ALC/SFRL.
819a.18 Responsibilities of Det 29, SA-ALC/SFM.
819a.19 Responsibilities of SA-ALC/ACPOA.
819a.20 Responsibilities of Base Fuels Management Office.
819a.21 Responsibilities of the Base Accounting and Finance Office.
819a.22 Special procedures for billing LOGAIR (AFLC).
819a.23 Sample authorized buyer letter.
819a.24 Sample credit extension letter.
819a.25 Emergency avfuel sales agreement.
819a.26 Sample emergency credit teletype.
819a.27 Tax exemption certificate.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: 45 FR 14848, Mar. 7, 1980, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation 144-9, December 17, 1979.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 819a.0 Purpose.

This part outlines the procedure for issuing fuel to contract, charter, and civil aircraft, explains when these issues may be made on credit, and at what price. It also explains when fed-

eral excise taxes must be collected on these issues. Special procedures for billing logistics airlift (LOGAIR) contract air carriers are included. These procedures are to be used by every Air Force aviation fuels account, whether operated by an Air Force, contract, or other unit. The part applies to all regular Air Force, Air National Guard, and Air Force Reserve activities that refuel aircraft. Requests for waivers should be directed in writing to HQ USAF/LEYSF through command channels. Major commands (MAJCOMs) may issue supplements to this part, when required, to describe command-unique procedures permitted by this part. Forward command supplements to HQ USAF/LEYSF, Wash DC 20330.

§ 819a.1 Explanation of terms.

(a) *Authorized Buyer Letter.* A letter submitted by an aircraft operator (airline or other owning organization) requesting approval to buy Air Force fuel and oil on credit. See sample letter in § 819a.23.

(b) *Aviation Fuel and Oil.* Aircraft fuel and bulk oils owned by the Fuels Divisions, Air Force Stock Fund. See AFM 67-1, volume 1, part three, chapter 1 for a list of products.

(c) *Bailed Aircraft.* United States government-owned aircraft on loan to a contractor. As used here, bailed aircraft are those provided to Department of Defense (DOD) contractors as government furnished property (GFP).

(d) *Charter Aircraft.* Aircraft operating under a charter agreement with any US government agency at rates that do not include the government's furnishing fuel to the aircraft.

(e) *Contract Aircraft.* Aircraft operating under airlift contract to any US government agency, including DOD and National Aeronautics and Space Administration (NASA), at rates that include the government's furnishing fuel at standard price to the aircraft.

(f) *Federal Excise Taxes (FETs).* Taxes levied under various sections of federal law on many types of items, including aviation fuels and oils sold within the United States. See § 819a.10 for cases when exemptions from these taxes apply.

(g) *Standard Price.* DOD-established prices for issuing stock fund-owned aviation fuel. These prices are the same at all DOD locations supplied by Defense Logistics Agency's (DLA's) Defense Fuel Supply Center (DFSC).

(h) *Stock Fund.* For purposes of this part, the Fuels Division, Air Force Stock Fund (AFSF). For more information, see AFR 170-25.

(i) *Surcharge.* As used here, a charge added to the cost of fuel sold at standard price to recover all costs to the government, incident to the sale of fuel and oil.

§ 819a.2 How to recognize contract, charter, and civil aircraft.

Most DOD and NASA contract and charter aircraft carry a DD Form 1896, Jet Fuel Identaplate, 1897, AVGAS Identaplate, or AF Form 1245, USAF AVGAS Identaplate. This identaplate is configured as directed by the cognizant MAJCOM contract office. Other specific identification carried aboard these and other types of flights is described below.

NOTE: Documentation may not always be available at the contract or charter origin point before refueling begins. Check with the administrative contracting (or transportation) office, who will give necessary information to the fuels management officer (FMO).

(a) Contract Aircraft-Department of Defense:

(1) Domestic flights. DOD flights carry a:

(i) Certificate of LOGAIR Operations (USAF-AFLC);

(ii) A Certificate of Quicktrans Operations (Navy);

(iii) A Certificate of Courier Service Operations (MAC); or

(iv) A Certificate of Intra-Alaska Operations (MAC).

(2) International Flights. These may be identified by MAC Form 8, Civil Aircraft Certificate-Contract.

(3) Flights Totally within an Overseas Area. Contracting officers (or overseas area transportation officers) issue identification for these flights. They will advise the base fuels management office (BFMO) at each base the flight will transit. They will describe the type of identifying papers to

make sure the flight is easily identifiable as a contract flight.

(b) Contract Aircraft Operating for Other Departments of the U.S. Government:

(1) Each agency that expects its contract aircraft to need fueling service at an Air Force base will advise San Antonio ALC/SFRL, Kelly AFB TX 78241, through AF/PAXJ, at least 15 days in advance of the first scheduled landing. The agency should:

(i) Describe identifying documentation and,

(ii) State whether its contract rates are partially based on furnishing government-owned fuel at a standard price, and whether the carrier has met the agency's requirements for tax exemption.

(2) SA-ALC/SFRL will, in turn, tell each base, at least 5 days before the first scheduled landing, what price to charge for fuel and oil.

(c) Bailed (Government-Furnished Property (GFP)) Aircraft. These aircraft should carry a valid DD Form 1896, 1897, or AF Form 1245, prepared by Detachment 29, SA-ALC/SFM, Cameron Station, Alexandria VA 22314, at the request of the MAJCOM that controls the contract. (For more information see Defense Acquisition Regulation (DAR—formerly Armed Services Procurement Regulation (ASPR)).) These aircraft are considered civil aircraft if they do not present an identaplate.

(d) Charter Aircraft—Department of Defense:

(1) Cargo Service Flights. These are identified by an SF Form 1103, US Government Bill of Lading, bearing a civil air freight movement (CAFM) number.

(2) Passenger Service Flights. These are identified by an SF Form 1169, The United States of America Transportation Request, bearing a commercial air movement (CAM) number.

NOTE: The SF 1169 may not be available until passengers enter the aircraft. If the plane must be refueled before they board, get the CAM number from the aircraft commander and verify it with the base operations or transportation officer.

(3) Army and Air Force Exchange Service (AAFES) Government Charter Flights. In certain cases, AAFES may charter a cargo flight. These flights carry AAFES Form 4150-1, AAFES Purchase and Delivery Order.

(4) Military Traffic Management Command (MTMC) Charter Flights. The identification for these flights is SF 1169, U.S. Government Transportation Request, bearing a CAM number. These are short term charters that originate and terminate within CONUS. HQ MTMC will inform each base that will be transited by these flights (with information copy to SA-ALC/ACFOA) of details in advance. Each MTMC charter must carry a valid AF 181 Civil Aircraft Landing Permit. (See note under paragraph (d)(2) of this section.)

(5) Flights Totally Within an Overseas Area. For these flights, the chartering office must notify each base where the flight will land and tell what identifying papers will be available in the aircraft.

(e) Charter Aircraft, Other US Departments and Agencies. Other government agencies will advise SA-ALC/SFRL in the manner prescribed for contract flights in paragraph (b) of this section.

(f) Civil Aircraft. Any aircraft not identifiable as a military, contract, bailed, or charter aircraft will be considered civil aircraft. Civil aircraft carry an AF Form 181. Civil air patrol (CAP) aircraft on USAF-directed missions, while civil aircraft, may be furnished fuel as required under the special authority granted by Title 10, United States Code (U.S.C.), section 9441(b)(3). They may be identified by tasking documentation carried aboard the aircraft.

(g) Humanitarian Flights. AF/PAXJ may approve landing and refueling rights for certain international humanitarian flights. These flights may be under contract or charter agreement to private or international groups. Consider them civil aircraft for determining fuel issue quantities and price.

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§ 819a.3 Determination of authorized sales and price of aviation fuel and oil.

Rule	A If the aircraft is operating as a	B as verified by	C then issues of fuel or oil may be made (see Note)	D and the price will be
1	contract aircraft (including bailed—GFP with identaplates).	certificate of LOGAIR, Quick-trans, courier service, or intra-Alaska operations, or MAC Form 8.	after end of flight as needed to get to nearest home station, next contract origin; or last station or point in between.	standard price. (See text for exception when contract aircraft may be deemed civil aircraft. When this occurs, price is standard plus 40% surcharge.)
2			at origin or continuation point, as needed for continuation of flight.	
3	charter aircraft	SF 1103 w/CAFM number, or SF 1169 w/CAM number, or AAFES Form 4150–1, or official notification from another source.	after flight ends, as needed to get to nearest home station, next charter origin point, last station or point in between.	standard price plus table 2 surcharge. (See text for exception when charter aircraft may be deemed civil aircraft. When this occurs, price is standard plus 40% surcharge.)
4			at unload or discharge points without commercial capability, or at origin or continuation points, as needed for continuation of flight.	

§ 819a.3 Determination of authorized sales and price of aviation fuel and oil.—Continued

Rule	A If the aircraft is operating as a	B as verified by	C then issues of fuel or oil may be made (see Note)	D and the price will be
5	civil aircraft (note) (except when on USAF order—see rule 7).	AF form 181	as needed to get to next destination when on government business, or approved humanitarian mission.	standard price plus 40% surcharge.
6			as needed to get to nearest commercial refueling point when using base as a weather alternate base, or in an emergency.	
7	CAP aircraft on USAF orders	AF Form 181 orders	as needed to reach next destination on orders.	for reimbursement to stock fund by MAC, standard price.

NOTE: All aircraft must have a valid landing permit, AF Form 181, unless making an emergency landing. Sales may be restricted by foreign government regulations, laws, practices, or international agreements.

BEST DOCUMENT AVAILABLE

§ 819a.4 Air Force fuel and oil sales policy for contract, charter, and civil aircraft.

Fuel and oil are not sold to these aircraft in competition with private enterprise. There are strict limits on when, how much, and at what price fuel and oil may be sold to them. (For a summary of these rules, see § 819a.3, columns a, b, c, and d.) Fuel and oil may be sold to these aircraft under the following rules:

(a) *Emergency Landings of Any Aircraft.* Issue enough fuel and oil to permit the aircraft to reach its next destination or its home station or commercial refueling point, local weather permitting, whichever is closer.

(b) *Contract Aircraft.* If they are starting or continuing a contract flight, they may be refueled normally to permit continuation of the flight. If they are completing a flight, they may be issued enough fuel (sometimes called "depositioning" fuel) to let them reach:

(1) Their nearest operating location or base, or

(2) The point where another contract flight is to begin, or

(3) The point where the contract flight began (or any point short of it). The aircraft operator will determine how much fuel or oil is needed to reach this destination.

NOTE: LOGAIR contractors sometimes perform charter missions. When requested, the air terminal can confirm whether the fuel issued is for a valid LOGAIR contract operation.)

(c) *Charter Aircraft.* Aircraft under US government charter are refueled like contract aircraft if the aircraft begins or ends a flight of at an Air Force base. That is, if a charter flight starts at a base, the aircraft may be issued fuel, as required, to perform the flight. After the flight ends, fuel quantities are limited as for depositioning of contract aircraft.

(1) If the flight ends at a facility where commercial refueling is available, it may not buy USAF fuel or oil except in an emergency.

(2) Commercial fuel is considered not available when:

(i) There is no commercial refueling capability at the origin or termination point, (for example, a regular Air Force base); or

(ii) The commercial service at a collocated Air Force-civil airfield cannot be provided because safety, economic, or other reasons will not allow the aircraft to get fuel from the commercial facility and pick up or discharge passengers or cargo at the Air Force's facilities.

(d) *Bailed Aircraft and CAP Aircraft.* When bailed aircraft carry a valid DD Form 1896, 1897, or AF Form 1245, or when a CAP aircraft operates under USAF direction, fuel may be furnished under the same quantity rules as for contract aircraft. Otherwise, consider CAP aircraft as civil aircraft.

(e) *Civil Aircraft.* Issue this type of aircraft only as much fuel as it needs to reach commercial refueling services safely. Exceptions: Issue enough fuel to let the aircraft reach its next destination if it is on official US business; is on a USAF-approved humanitarian mission; or if HQ USAF approves the exception.

§ 819a.5 Surcharging sales to charter aircraft.

Rule	If airfield is	Then accessorial charge is (percent)
1	Overseas, including Europe and Mediterranean, Alaska, Hawaii, and Central America.	[1]8.0
2	Elsewhere overseas including Thule and Labrador.	[1]9.0
3	CONUS, excluding Alaska and Hawaii, including District of Columbia (DC).	[1]5.5

[1] Unless this guidance conflicts with a foreign or international agreement, practice, law, or regulation.

§ 819a.6 Prices to charge.

Air Force sales of aviation fuels and oils are priced to avoid competition between the government and private industry and to recover government costs. When the government pays or reimburses an air carrier for the cost of fuel, the sale will be at standard price.

(a) *Contract Aircraft.* Sell fuel to these aircraft at standard price if the carrier is operating within the contract's terms. If the carrier is supposed

to land and refuel at a civil airfield and is diverting to a base to get fuel and oil, however, sell the aircraft fuel and oil at the civil aircraft price (paragraph (c) of this section).

(b) *Charter Aircraft.* Sell fuel and oil to these aircraft at standard price plus the surcharge shown in § 819a.5. If the aircraft, however, is diverting to a base from its charter origin or termination point at a civil airfield just to buy government fuel, consider it a civil aircraft and charge accordingly (paragraph (c) of this section).

(c) *Civil Aircraft.* Sell fuel and oil to these aircraft at standard price, plus a surcharge of 40 percent.

(d) CAP and GFP or bailed aircraft with proper identification (see § 819a.4(d)). Provide fuel and oil to these aircraft at standard price.

§ 819a.7 Establishing credit for USAF fuel and oil.

Air carriers or operators may establish credit to avoid large cash payments for fuel and oil when government business requires or allows government refueling. See § 819a.9 for how to establish credit in emergencies.

(a) *Authorized Buyer Letters.* An air carrier or operator who requires credit must submit an "Authorized Buyer Letter" (original and two copies) to HQ USAF/PAXJ, Wash DC 20330. (See required format in § 819a.23.)

(1) HQ USAF/PAXJ will:

(i) Annotate the AF Form 181 that the authorized buyer letter has been submitted.

(ii) Forward a copy of the landing permit and the authorized buyer letter to SA-ALC/SFRL, Kelly AFB TX 78241, and to SA-ALC/ACFOA, Kelly AFB TX 78241.

(2) SA-ALC/ACFOA will advise SA-ALC/SFRL whether:

(i) The carrier has a good payment record, if any, and

(ii) The applicant's company appears either on the US Army Finance and Accounting Center (USAFAC) or DAR "hold up" list (reference AFM 177-102 and DAR Appendix E-518.2).

(3) SA-ALC/ACFOA and SFRL will use this information and other available credit information to determine whether the carrier is creditworthy. SA-ALC/SFRL will then:

(i) Inform the carrier (with information copy to the contracting or chartering office, SA-ALC/ACFOA, and HQ USAF/PAXJ) of the government's decision to extend or deny credit.

(ii) Publish the names, approval numbers, and expiration dates of air carrier credit approvals via controlled multiple address letters (CMAL's).

(4) Carriers denied credit will also be cited in the CMAL. The CMAL will be revised at least quarterly, with message updates when required.

(5) In all but emergency situations, the CMAL, not the identaplate, is the sole authority for issuing fuel on credit. Carriers will not be denied credit or fueling service when they fail to show a valid identaplate. At the same time, however, credit will not be allowed, except in an emergency (see § 819a.8) unless the carrier appears in the CMAL as approved for credit, even if an identaplate is presented.

(b) *Credit for USAF Contract and Charter Aircraft Missions.* The MAJCOM responsible for the contract or charter agreement will issue controlled avfuel identaplates (DD Forms 1896, 1897 or AF Form 1245) after credit approval.

(1) Identaplates are embossed as prescribed in AFM 67-1, volume 1, part three, chapter 1. They must show an expiration date of 12 months from the date of issue or, if the fuel requirement is based on a contract or charter arrangement, the date the arrangement or contract expires. Exception: MTMC charter aircraft are one-time single-flight charter arrangements. If credit is approved, obtain billing data for these charters from the carrier's agent or the crew chief or pilot.

(2) If a USAF contract or charter aircraft requests refueling on credit and does not have an identaplate, use the AF Form 181 (jointly with the authorized buyer CMAL) to verify credit authority and obtain a billing address. If identaplates required by this part are not made available for refueling or are not aboard the aircraft, ask the MAJCOM office that controls the identaplate to follow up with the carrier to locate the lost identaplate.

(3) If the office responsible for controlling the identaplate requests the base to reissue one, obtain a new con-

trol number from the responsible office. Provide the new number and old, invalid number to SA-ALC/SFRL within 2 workdays. SA-ALC/SFRL will amend the CMAL.

(c) *Identaplates for Civil Aircraft Operators or Missions.* SA-ALC/SFRL will determine whether to issue an identaplate for this type of carrier or mission. If the aircraft has recurring refueling needs that will last more than 90 days, or if the mission requires special information best obtained from an identaplate, SA-ALC/SFRL will direct its preparation.

§ 819a.8 Procedures for renewing credit.

(a) At least 90 days before a carrier's credit expires, SA-ALC/ACFOA (and, if required, SA-ALC/SFRL) will determine whether credit should or should not be renewed. Reasons for not renewing credit would include failure of the carrier to pay on time, the carrier's entry onto a "hold up" list, expiration of the carrier's need for USAF fuel, etc.

(b) If the credit record is satisfactory, SA-ALC/ACFOA will advise the cognizant office that credit will expire unless an extension is requested.

(c) The cognizant office will ask the carrier to validate the need for extending credit by requesting the carrier to return a form letter (see format § 819a.24). For contract and charter arrangements, the cognizant MAJCOM may adjust this procedure as needed to conform with the terms of the contracts being administered. The MAJCOM, however, must publish a supplement to this part and forward a copy to HQ USAF/LEYSF, Wash DC 20330.

(d) MAJCOMs or other offices exercising cognizance over contract or charter air carriers must inform SA-ALC/SFRL and ACFOA whenever actions they or their carriers take change a carrier's credit rating, expiration date, etc.

(e) When credit is extended, the responsible office will issue the required number of new identaplates, showing the new expiration dates. The office directing identaplate preparation will inform SA-ALC/SFRL at least 45 workdays prior to effective date, of new identaplate control numbers and expiration dates.

(f) SA-ALC/SFRL will update the authorized buyer CMAL at least 20 days prior to effective date.

§ 819a.9 Emergency credit procedure.

If a civil air carrier makes an emergency landing, needs refueling, and cannot pay cash, the base commander may authorize emergency one-time credit when all of the following conditions are met:

(a) The carrier is registered as a commercial carrier, and

(b) The aircraft commander provides the proper billing information, and

(c) Base accounting and finance cannot find the carrier listed on any "hold up" list, and

(d) One of the following types of credit agreements is made:

(1) The aircraft commander or other crew member is authorized to sign and signs a reimbursement agreement in the format of § 819a.25, or

(2) An authorized representative of the air carrier agrees orally, and will confirm by teletype, within 24 hours (see format, § 819a.26), to reimburse the Air Force Stock Fund. If this arrangement is used, obtain billing information from the official agreeing to the reimbursement.

NOTE: When an emergency credit sale is made according to this section, report it to SA-ALC/ACFOA and SA-ALC/SFRL within 2 workdays.

§ 819a.10 Credit revocation

When a carrier does not comply with terms under which credit has been extended, the following procedures apply:

(a) SA-ALC/ACFOA will advise AFAFC/TCB. If AFAFC/TCB determines that collection cannot be made that credit should be revoked, that office will ask AF/PAXJ to cancel credit.

(b) AF/PAXJ will notify SA-ALC/ACFOA and SFRL, with information copies to AF/LEYSF and AFAFC/TCB, that credit should be revoked.

(c) SA-ALC/SFRL will immediately amend the authorized buyer CMAL.

§ 819a.11 Billing and collecting.

Use the normal billing procedures prescribed in AFM 177-206 for billing aviation fuel sales to non-DOD customers. Each carrier or operator that has been granted credit must comply with the authorized buyer letter (estimated consumption payments), when applicable.

§ 819a.12 Federal Excise Taxes (FETs).

Most Federal excise taxes are computed and collected by SA-ALC/ACFOA (credit sales). Use the following guidance at base level in computing FET on a cash sale that must be collected by the BFMO:

(a) Federal law imposes taxes on the sale of various types of petroleum products in the United States (CONUS, Alaska, DC, and Hawaii). The rules are complex, so §§ 819a.13 and 819a.14 have been provided to help determine when and how much tax must be added to sales of fuel and oil to contract, charter, bailed, and civil aircraft. (For reference, the applicable laws in Title 26, U.S.C., are: Chapter 31, section 4041; chapter 32, section 4081, 4091, 4221, and 4293.)

(b) Depending on circumstances, the Air Force must collect from contract, charter, bailed, and civil aircraft one or two types of FET, except when complete tax exemptions apply. The basic rules are as follows:

(1) Air Force must collect a retail FET on sales to aircraft engaged in noncommercial aviation. This term relates strictly to tax laws and is defined (26 U.S.C. 4041) basically as "any use of an aircraft, other than use in a business of transporting persons or property for compensation or hire by air * * *." Generally, these noncommercial aircraft are private or company planes and aircraft of research groups who are performing government studies.

(2) In order for an aircraft operator to be exempted from any retail FET, the carrier must file a. Tax Exemption Certificate (in the format of § 819a.27) with SA-ALC/ACFOA, Kelly AFB TX 78241. The carrier may also present (and surrender) a copy of this certificate at time of refueling. When certifying for an exemption from retail FET, the carrier must cite the number of its "Certificate of Registry." This certificate is filed with Internal Revenue Service (IRS-Form 637a.)

(3) Foreign and domestic military aircraft do not need to present tax exemption certificates.

(4) Retail FET will not be charged on sales of fuel and oil to the following types of aircraft when their operators have filed a Tax Exemption Certificate, as reflected in the authorized buyer CMAL, or when an aircraft operator presents a certificate at the time of refueling:

(i) Aircraft of state, local, or DC governments.

(ii) Aircraft operated by nonprofit educational institutions.

(iii) Aircraft using fuel for farming purposes.

(iv) Civil aircraft engaged in foreign trade or trade between the United States and its possessions (determined at base level from aircraft's last departure point, next destination or, for contract flights, contract flight termination point: That is, an international origin or destination).

(v) Aircraft owned by aircraft museums and operated exclusively for the procurement, care, and exhibition of aircraft of the type used for combat or transport in World War II.

(vi) Other US government aircraft, if the exemption is approved by the Secretary of the Treasury; if in doubt, contact SA-ALC/ACFOA.

(5) The Air Force must also collect a manufacturer's FET on sales of aviation gasoline and all lubricating oils sold for commercial and noncommercial aviation, unless an exemption applies. Military aircraft are excluded.

(i) The exemptions from this tax apply to sales of fuel and oil to all aircraft described in paragraphs (b)(4)(i), (ii), (iv), and (vi) of this section.

(ii) An aircraft operator desiring an exemption must file a Tax Exemption Certificate at least once every 3 years with SA-ALC/ACFOA. A certificate (or valid copy) may also be presented (and surrendered) at time of refueling. Certificates presented at refueling should be retained by BFMOs for 4 years.

(iii) Registry with the IRS is not necessary for exemption from manufacturer's FET. Omit reference to the

Certificate of Registry number if a tax exemption certificate will be filed only for manufacturer's FET exemption.

(6) Retain all tax-related documents, wherever filed, for 4 years.

(7) See §§ 819a.13 and 819a.14 for amounts of taxes.

(8) The BFMO will collect taxes on cash sales and deposit the money to the clearing account 57F1052.001 S504300 (SA-ALC). When credit sales are made, the billing office will collect the taxes. (Refueling personnel must mark fuel issue slips clearly according to the type of aircraft being refueled and its tax status.)

(9) The Air Force does not collect state and local taxes; but, if requested to do so by local officials, the Air Force will report the sale of aviation fuel or oil to contract, charter, balled, and civil aircraft. Each sale to contract aircraft must be annotated as "Contract," since local taxes do not apply to these sales.

§ 819a.13 When to charge taxes.

Rule	A—if aircraft is	B—and is	C—and has exemption certificate	D—then the tax rate is as in table 4, rule:
1	commercial or noncommercial	on any business	no	1
2	noncommercial	owned by a state, local or DC Government.	yes	2
3	noncommercial [1]	owned by a nonprofit-educational agency.	yes	2
4	commercial or noncommercial	used for farming	yes	3
5	commercial or noncommercial	engaged in foreign trade or trade between US and possessions.	yes	2
6	noncommercial	owned by aircraft museum	yes	3
7	noncommercial	owned by another federal agency	[2]yes	2
8	commercial[1]	on any commercial business not specifically exempted above.	yes	3
9	other		yes	3

[1] A commercial aircraft operating with an approved exemption certificate based on 26 U.S.C. 501c would also be exempt from manufacturer's FET.

[2] These exemptions must be approved for each agency by the Secretary of the Treasury (26 U.S.C. 4293). An exemption certificate would provide evidence to the Air Force of such exemption.

NOTE: A tax exemption certificate, showing that the carrier is registered with IRS for tax-free sales, is required for exemption from the retail FET. A certificate may be filed for periods up to 1 year, if the carrier believes 90 or more percent of its fuel use during that period will not be for other than noncommercial aviation; otherwise, certificates must be presented for each sale. Certificates filed with Air Force for exemption from manufacturer's FET are valid for up to 12 quarters (3 years).

§ 819a.14 Computing taxes imposed according to § 819a.13.

Rules	A If type of tax is	B then taxes per gallon are Jet	C Avg	D Oil
	Retailer's	.07	.03	0
1	Manufacturer's	0	.04	.06
	Total due	.07	.07	.06
2	Retailer's	0	0	0
	Manufacturer's	0	0	0
	Total due	0	0	0
3	Retailer's	0	0	0
	Manufacturer's	0	.04	.06
	Total due	0	.04	.06

§ 819a.15 HQ USAF responsibilities.

(a) AF/LEYSF is responsible for sales and pricing policy.

(b) AF/PAXJ is responsible for processing air carrier requests for approval to land at Air Force bases (see Part 855 of this chapter) and for forwarding authorized buyer letters to SA-ALC/ACFOA and SFRL. AF/PAXJ will also forward tax exemption certificates to SA-ALC/ACFOA, if received.

§ 819a.16 Responsibilities of the MAJCOMs.

Each major command will comply with the rules for identaplate issuance and control for any contract or charter aircraft operations under its cognizance.

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(a) If the MAJCOM deals with contract, charter, bailed, or civil aircraft, it will make sure that air carriers and operators understand and know about this part.

(b) Identaplates prepared for GFP (bailed) aircraft under AFLC or AFSC/ASD contracts will be issued and controlled by Det 29, SA-ALC/SFM, Cameron Station, Alexandria VA 22314, according to Air Force DAR (ASPR) Supplement (2).

(c) MAJCOMs will also insure compliance with the sale policies of this part at their bases.

§ 819a.17 Responsibilities of SA-ALC/SFRL.

This office will work with SA-ALC/ACFOA in determining whether to extend credit to an air carrier that submits an authorized buyer letter and in notifying the carrier and others of SA-ALCs credit determination. This office will also:

(a) Prepare and dispatch a quarterly CMAL, listing carriers that have approved credit with the date their credit expires and their tax exempt status. The CMAL will list control numbers of lost or otherwise invalid identaplates.

(b) Issue and control identaplates for civil aircraft, as required.

§ 819a.18 Responsibilities of Det 29, SA-ALC/SFM.

This detachment prepares and controls identaplates for bailed (GFP) aircraft, per Air Force DAR (ASPR) Supplement (2).

§ 819a.19 Responsibilities of SA-ALC/ACFOA.

This office will assist SA-ALC/SFRL in determining the credit record of carriers requesting credit. It will also monitor and report any changes in the expiration dates of credit approvals and tax exemption certificates. It will bill and collect issues to contract, charter, and civil aircraft (except cash and international sales).

§ 819a.20 Responsibilities of Base Fuels Management Office.

These offices will:

(a) Implement the guidance in this part and make sure that refueling personnel know how to identify contract, charter, and civil aircraft; how to determine their authority to buy on credit and their tax status (cash sales); and how to complete issue slips properly (AF Form 1995, Fuels Issue/Defuel Document (non-DOD)).

(b) Work with base accounting and finance office to set up procedures for collecting, protecting, and depositing cash, company checks, or money orders obtained from cash sales. (See AFM 177-101, part four, chapter 8, and AFM 177-108, chapter 1.)

§ 819a.21 Responsibilities of the Base Accounting and Finance Office.

These offices will assist in making cash collections and depositing receipts. They will also help process billings, using the procedures in AFMs 177-206 and 177-376.

§ 819a.22 Special procedures for billing LOGAIR (AFLC).

To reduce overall costs to the government, AFLC LOGAIR contract carriers may purchase Air Force-owned fuel. Procedures for estimating, determining, and billing these fuel costs for LOGAIR are as follows:

(a) Contract carriers deduct estimated fuel uplifted from their weekly voucher for services performed as follows:

(1) The formula used is miles flown, times the estimated gallons per mile, times the contract fuel base price. The result of this computation is estimated fuel cost.

(2) The base price is the price of fuel used in establishing contract prices for LOGAIR service.

(3) AFLC deducts this cost from the total airlift contract cost and pays the contractor.

(b) SA-ALC/ACFOA bills AFLC/LOTSL (Directorate for Transportation) for the actual fuel uplifted at the standard price each month, citing type of aircraft and other LOGAIR contract data.

(c) AFLC/LOTSL and LOGAIR contractors reconcile monthly, beginning with the 3d month, by comparing the actual fuel billed by SA-ALC/ACFOA against the funds previously deducted

from the contractor's weekly vouchers for estimated fuel purchased.

§ 819a.23 Sample authorized buyer letter.

ABC AIRLINES, INC., METROPOLITAN INTERNATIONAL AIRPORT, MAJORTOWN, U.S.A.

HQ USAF/PAXJ
Washington DC 20330

Subject: Credit Purchases of Air Force Aviation Fuel and Oil.

Gentlemen: ABC Airlines, Inc., wishes to purchase Air Force-owned aviation fuel and oil required in performance of ———— (see note 1) on credit. In consideration of your authorization of credit, we agree to pay within 15 days of billing date, all amounts due for purchase of aviation fuel and oil from the Air Force.

(See note 2 about this paragraph.) We require —— DD Form 1896 Jet Fuel Identaplate DD Form 1897 AVGAS identaplate or AF Form 1245, USAF AVGAS identaplate in performance of the missions cited above. Billing address to be embossed on the identaplates is:

ABC Airlines, Inc., Metropolitan IAP, box 123, Majortown, USA 12345.

Types of aircraft and tail numbers are: L188 Nos 123456 and 234678; L100 No 876543.

(See note 2 about this sentence.) We agree to present an identaplate when requesting fuel at a USAF base. We will promptly pay to the Accounting and Finance Office, Kelly AFB TX 78241, amounts due for actual or estimated issues of aviation fuel and oil furnished our aircraft during a given monthly or semi-monthly period.

a. We will compute the required payment for any given period by multiplying actual or estimated usage of aviation fuel and oil (based on issues slips received and other evidence) by the current Defense Fuel Supply Center standard price plus applicable taxes and related charges.

b. If the estimated payment for any month is less than $100,000, we will remit such payment monthly, on or before the 10th day of the month following the month in which such issues were made.

c. If the estimated payment for a given month is $100,000 or more, we will remit such payment twice a month. The first payment will cover issues made during the first 15 days of a given month and will be remitted on or before the 25th day of that month. The second estimated payment will cover issues made during the period from the 16th day until the end of the given month, and will be remitted on or before the 10th day of the month following the month in which such issues were made.

We understand that within approximately 90 days after the close of the month cited, the Air Force will provide us with an invoice showing the actual amount that we owe, and payments that we may have made for that month. We will remit to the office named above, in paragraph 1, any unpaid balance for that given month within 10 days following receipt of the invoice. If the invoice discloses an overpayment, such credit will be applied to the next payment due, or refunded to us, if required.

We understand that failure to comply with these credit arrangements will be grounds for the Department of the Air Force to cancel any credit extended as a result of this request. In the event we do not comply with the reimbursement requirements of this agreement, we understand that the Air Force is entitled to withhold funds from amounts due under contracts for services furnished to the government. Any amounts withheld will be equal to the value of debts not paid under this agreement (see note 3).

It is understood that this agreement may be cancelled voluntarily by either party upon receipt of notice of intent to cancel 30 days prior to the date of such cancellation. Cancellation, however, does not cancel any indebtedness already incurred or that may yet arise out of actual fuel and oil purchases made.

NOTE 1: Include the type of business you are conducting (for example, contract, charter, or civil aircraft operations). Be specific: cite contract numbers, charter agreements, specific type of civil operations, etc. Insufficient information may delay credit approval or result in disapproval.

NOTE 2: The text of this paragraph or sentence should fit the specific situation. Give the types of aircraft and tail numbers only if the applicant does not provide this information through other channels, for example, contracting or chartering office of the Air Force. Also indicate if several aircraft of one or more types will use a single identaplate. Applicants not under contract or charter agreement may omit this paragraph or sentence and furnish the information only upon request.

NOTE 3: If the applicant is not under contract to the government, include only the first sentence of this paragraph.

§ 819a.24 Sample credit extension letter.

ABC AIRLINES, INC., METROPOLITAN INTERNATIONAL AIRPORT, MAJORTOWN, U.S.A.
00000

San Antonio ALC/ACFOA
Kelly AFB, TX 78241

Subject: Credit Extension.

Re: Your letter, September nth, 1984.

Gentlemen: This is to advise that we continue to require credit on the terms of our original application.

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(Optional notes)

We will not need credit after December nth, 1988. (note 1)

We need an additional ———— identaplates for aircraft tail numbers as follows: (note 2)

NOTE 1: SA-ALC need not ask for an expiration unless it will come sooner than the normal 90-day extension run-out.

NOTE 2: If aircraft tail number control is used, or when any other data supplied by the carrier is required, it may be requested and obtained in this update.

§ 819a.25 Emergency avfuel sales agreement.

[1]1. a. I certify that I am authorized to purchase aviation fuel on an emergency basis for (name of airline/company) ———— and that (name of airline/company) ———— will reimburse the Air Force.

OR:

b. I certify that I received the aviation fuel listed below and that I will reimburse the US Air Force.

2. Payment will be made within 15 days to the Accounting and Finance Officer, (name of base making sale) ————.

Our address is: (complete address) ————.

3. Expenses were incurred for (type of aircraft) —— (aircraft number) ——. and payment in the amount shown below shall be made in accordance with this agreement:

a. List fuel issued, unit cost and total cost.

b. List administrative and handling surcharge, if applicable.

c. List applicable taxes.

d. List total of a, b, and c.

Signature (Pilot/Crew Member)

Typed Name

NOTE: Obtain complete address of the company/person making purchase.

§ 819a.26 Sample emergency credit teletype.

To: SA-ALC Kelly AFB TX/ACFOA/SFRL
Subject: Emergency Credit Agreement.

1. ABC Airlines, 1234 Big Boulevard, Majortown, USA 00000 agrees to reimburse the United States Air Force within 15 days of being billed for all fuel and oil purchased under emergency landing conditions on September nth, 1984, at Pacific AFB.

2. We understand that the billing includes a civil aircraft surcharge of 40 percent and any applicable taxes. We further understand that this agreement does not entitle ABC Airlines to purchase fuel on credit at any other time.

3. Billing for this purchase should be sent to the above address, Attn: (whatever department (or name of responsible agent)).

§ 819a.27 Tax exemption certificate.

(Date) ————

The undersigned certifies that he or she, or the (name of purchaser if other than undersigned) ———— of which he or she is (title) ————, holds certificate of registry number —— [1] and the fuel delivered into a supply tank of his or her aircraft may be purchased free of tax because such fuel will be used ————.

The undersigned understands that if the fuel is used otherwise than as stated as above and for a purpose taxable under the Internal Revenue Code, he or she will be liable for the tax upon such use.

The undersigned understands that a fraudulent use of this certificate to secure exemption will subject him or her and all guilty parties to a penalty equivalent to the amount of tax due on the sale of fuel, and on conviction to a fine of no more than $10,000, or to imprisonment for no more than 5 years, or both, together with the costs of prosecution. The purchaser also understands that he or she must be prepared to establish by satisfactory evidence the purpose for which the fuel purchased under this certificate was used.

(Signature) ————————————

Box 3001, Oakland International Airport, Oakland, CA 94615.

[1]When the purchase is made by the pilot or crew member on behalf of an airline or company, use paragraph 1a. When the purchase is made for a privately-owned aircraft, use paragraph 1b.

[1]Omit reference to certificate of Registry number if Certificate is being filed for an exemption from Manufacturer's FET on gasoline and lubricating oils.

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SUBCHAPTER C—PUBLIC RELATIONS

PART 821—MISSION AND FUNCTIONS OF THE USAF AIR DEMONSTRATION SQUADRON, "THUNDERBIRDS"

Sec.

821.1 Purpose.
821.2 Organization of the squadron.
821.3 Squadron mission.
821.4 Definition.
821.5 Demonstration rules.
821.6 Requests for demonstrations.
821.7 Direct communication authorized.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: 35 FR 17542, Nov. 14, 1970, unless otherwise noted.

§ 821.1 Purpose.

This part states the mission, functions, and operations policy of the USAF Air Demonstration Squadron, "Thunderbirds," and tells how to request Thunderbird demonstrations.

§ 821.2 Organization of the squadron.

The USAF Air Demonstration Squadron, "Thunderbirds," is established as the official Air Force tactical precision flying demonstration team.

§ 821.3 Squadron mission.

The USAF Air Demonstration Squadron plans and presents precision aerial maneuvers to exhibit air power and the flexibilities of modern tactical aircraft, as well as the high degree of professional skills required to operate high performance aircraft. Objectives are:

(a) To demonstrate selected capabilities of tactical airpower and the professional competence of Air Force personnel.

(b) To reinforce public confidence in the U.S. Air Force and its personnel.

(c) To support U.S. Air Force-community relations and people-to-people programs.

(d) To support Air Force recruiting and retention programs.

[35 FR 17542, Nov. 14, 1970, as amended at 37 FR 17553, Aug. 30, 1972]

§ 821.4 Definition.

As used in this part, a "demonstration" is precision aerial performance, flown by a team of skilled pilots, in assigned mission aircraft, in the subsonic speed range, before a given audience. Each demonstration is narrated by a qualified squadron member. If possible, after the demonstration, a ground display of appropriate aircraft and equipment is made available to the audience. The pilots participating in the demonstrations are also available for discussions.

§ 821.5 Demonstration rules.

All Thunderbird demonstrations are performed as follows:

(a) Aerial maneuvers are flown within the capability of the assigned mission aircraft at the direction of the squadron commander and as authorized by the Commander, Tactical Air Command.

(b) Aerial acrobatic maneuvers are not authorized:

(1) Over congested areas of cities, towns, settlements, or designated spectator areas. (This does not prohibit normal flight in accordance with regulations of the Federal Aviation Administration (FAA). Positioning turns and maneuvers made away from the designated spectator area are not considered acrobatic maneuvers.)

(2) Closer to the designated spectator area than the minimum horizontal distance specified in applicable FAA or host country directives. (Normal takeoffs and landings are not considered part of the demonstration; however, no takeoff or landing is made toward or over the designated spectator area.)

(3) Unless the demonstration is conducted in a direction that most nearly parallels the boundaries of the designated spectator area.

(4) At airfields open to other traffic during the performance.

(c) Acrobatic maneuvers outside the United States are conducted according to the rules and regulations of the host country.

(d) Minimums for aerial demonstrations are:

(1) *Weather and visibility minimums.* Minimum ceiling and visibility within U.S. jurisdiction are as determined by the FAA representative. Weather minimums for aerial demonstrations conducted outside U.S. jurisdiction are determined by the Thunderbird commander. The ceiling (within or outside the U.S. jurisdiction) is never less than the peak altitude of the highest vertical maneuver to be performed or 2,500 feet, whichever is higher, with a visibility of 5 miles.

(2) *Minimum altitude.* The altitude above the terrain and maneuver airspeed is as stated in the detailed description for the maneuver as contained in USAFTFWCM 60-2 (obtainable from USAFTFWC, Nellis Air Force Base, Nev. 89110).

(e) All aerial demonstrations in the United States require a written agreement with the appropriate FAA representative. This agreement must clearly specify air speeds, altitudes, route of flight, maneuvers, etc., to be used. No aerial demonstration, except practice in approved restricted areas or in designated areas near Nellis Air Force Base, can be conducted without this definitive written agreement.

[37 FR 17553, Aug. 30, 1972]

§ 821.6 Requests for demonstrations.

(a) Requests for Thunderbird demonstrations will be forwarded through major command channels to HQ USAF/SAFOIC, Washington, D.C. 20330. For planning purposes, major commands must submit annual requirements for the Thunderbirds to SAFOIC by November 1, for the coming year's events. Requests for Thunderbird demonstrations, other than those submitted in November, are honored when possible.

(b) Orientation or indoctrination flights by the Thunderbirds normally are not authorized. Exceptions will be made by Chief of Staff, USAF, and only in rare cases. Requests for exception should be submitted through channels to SAFOIC not later than 15 days before the proposed flight.

[35 FR 17542, Nov. 14, 1970, as amended at 37 FR 17553, Aug. 30, 1972]

§ 821.7 Direct communication authorized.

After a request for a demonstration is approved, the Commander, USAF Air Demonstration Squadron, and a representative of the requesting organization may communicate on demonstration matters.

[37 FR 17553, Aug. 30, 1972]

PART 822—INFORMATION AUDIOVISUAL (AV) ACTIVITIES

Sec.

822.1 Purpose.
822.2 Air Force policy.
822.3 Air Force AV information material.
822.4 Types of AV information media.
822.5 Air Force help to industry or commercial producers.
822.6 Photography and the Privacy Act.
822.7 How to request an AV product or services.
822.8 How to adopt AV material for information use.
822.9 SAF/OI responsibilities.
822.10 Major command responsibilities.
822.11 AAVS responsibilities.
822.12 Newsfilm.
822.13 How to request coverage for release through the DOD newsfilm pool.
822.14 How to release newsfilm through the DOD newsfilm pool.

AUTHORITY: Sec. 8012, 70A Stat. 488; U.S.C. 8012.

SOURCE: 43 FR 37687, Aug. 24, 1978, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation 190-23, October 21, 1977.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 822.1 Purpose.

This part states Air Force information AV policies; assigns who plans, coordinates, and expedites delivery of AV materials for information use; tells how to request AV information coverage of an event or production; and tells how AV material produced by an agency other than the Air Force may be adopted for official Air Force use. It applies to all people involved in AV information activities in the Air Force. For guidance on Air Force support of non-Government groups engaged in

AV and Information activities, see Part 837 of this chapter.

§ 822.2 Air Force policy.

(a) AV material may be used to show and explain Air Force activities. Planning is necessary to get and use such AV materials as films, still photos, audio and video tapes.

(b) AV coverage of such Air Force events as exercises, tests, and research and development, can be a part of the general information plan, or published in orders or test directives. If more than one command is involved, the Secretary of the Air Force Office of Information (SAFOI) names one of them as the prime agency, which is to set up coverage with the Aerospace Audiovisual Service (AAVS) through the command AVOPR.

(c) Coverage of Air Force events with news potential should stress the use of crews from AAVS (MAC). Local film crews may be used if AAVS cannot meet the need.

(d) Policy and guidance on release of AV material to non-Government groups engaged in information activities is in Part 837 of this chapter. These groups include theatrical, film, television, and radio producers; news representatives; advertisers and contractors.

§ 822.3 Air Force AV information material.

(a) AV Information materials include those produced by the Air Force or industry to inform the public on Air Force subjects, or to achieve the motivational objectives stated in AFR 190-18, Air Force internal information program. Although other AV material may be useful in entertaining, educating, training, or informing selected audiences of some aspects of Air Force programs or procedures, they are considered "Information" materials only if they meet the requirements stated above.

(b) There are three main ways to get official Air Force AV material for Information use:

(1) Production or procurement under AFR 95-14, Programing and Producing Audiovisual Products and Services.

(2) Cooperation with industry (see § 822.5).

(3) Adoption of audiovisual material produced by other Government groups or commercial firms (see § 822.8).

§ 822.4 Types of AV information media.

(a) Documentation. Motion picture film, video and audio tape recordings, and still photographs.

(b) Air Force film, audio, and video tape production intended for information use.

(c) Certain films, audio or video tapes produced by other Government groups or commerical firms independently of the Air Force and later recommended for official Air Force use (see § 822.8).

§ 822.5 Air Force help to industry or commercial producers.

(a) There are two types of AV material resulting from Air Force help to industry or production groups.

(1) *Industrial AV materials.* These are commercially made with private funds for public relations or institutional advertising value to the sponsor and are of informational value to the Air Force and the public. Such materials normally are produced by groups or firms having mutual interest with the Air Force in the subject matter. When produced, and if used by the Air Force per AFR 95-14, this type of material becomes an official Air Force product for use through the Air Force Audio-visual Library Center.

(2) *Commercial materials.* These are theatrical, entertainment, or documentary materials produced by commercial companies for public, theatrical, television exhibition or sale.

(b) The Air Force policy to help producers of both industrial and commercial productions is in Part 837 of this chapter.

§ 822.6 Photography and the Privacy Act.

Defense Privacy Board decision memorandum 76-1-17 states that official photographs of military and civilian DOD employees generally are releasable under the Freedom of Information Act (5 U.S.C. 552a(b)(2)). However, a photograph is not releasable if it depicts matters which, if disclosed to

90-112 O—82——11

public view, would constitute a clearly unwarranted invasion of personal privacy. Generally, photographs of award ceremonies, routine news photographs of Air Force activities and personnel, chain of command photographs and similar photographs are releasable. These photographs are not considered to be a collection of information as contemplated by section (e)(3) of the Privacy Act, and no Privacy Act advice is required.

§ 822.7 How to request an AV product or services.

AFR 95-14 gives guidance on how to prepare and submit requests.

§ 822.8 How to adopt AV material for information use.

Forward a 16mm print, video tape, multi-media material, record, audio tape, etc., to SAF/OIP for review. Send the data required by AFR 95-14 with each audiovisual product recommended for adoption. If SAF/OI validates the request, it is sent to HQ USAF/XOODV with a recommendation for adoption per AFR 95-14.

§ 822.9 SAF/OI responsibilities.

SAF/OIP is the Air Force office of primary responsibility (OPR) for public release of AV material. SAF/OIS is OPR for security review of these materials. SAF/OI:

(a) Approves or disapproves the proposals for public information use of each AV production request, as required by AFR 95-14.

(b) Approves or disapproves public release of each script and advance print of AF material intended for public information use.

(c) Reviews and approves or disapproves information proposals for getting and releasing AF products, except those with only local interest.

(d) Reviews and evaluates other production needs to determine their value in an information program.

(e) Requests support for documentation needs according to Part 811a of this chapter.

(f) Sends public information production needs to AF/XOODV per AFR 95-14.

(g) Coordinates with and gets the approval of the Office, Assistant Secretary of Defense (Public Affairs), to clear audio and video tapes, motion pictures, and still photography for public release. See AFR 190-17, review and clearance of Department of the Air Force Information, and AFR 94-14 for steps in submitting a request for security and policy review.

(h) Reviews request for Air Force help from non-Government groups engaged in information activities, as required in Part 837 of this chapter.

§ 822.10 Major command responsibilities.

(a) Establishes an AV OPR in the command to be the AV focal point for information activities. (To ask for or to validate an AV need or to ask for public clearance, checks Part 811a of this chapter. To ask for AV documentation checks Part 811a of this chapter. To ask for AV materials or services at base level, checks AFR 95-7, Audiovisual Services.)

(b) Sets up procedures to validate requests for the production of information material.

(c) Recommends whether AV coverage is considered appropriate for national release through DOD Newsfilm Pool or for local release only.

(d) Forwards, with each proposed release, photographs and film clips that require clearance in advance for public release.

(e) Obtains a DOD newsfilm release number from SAF/OIP for motion picture film when release is to be made at locations other than Washington, D.C. (see § 822.14(b)).

(f) Expedites delivery of film to the media use points.

(g) Asks for documentary coverage of special events, humanitarian efforts, disaster relief, exercises, weapons tests, and other news events through the command AV OPR.

(h) Asks for AAVS coverage of those events that are closed.

(i) Plans AV coverage during the first phase of a project with the command AV OPR.

(j) Sends original photographic negatives or positives to the AV depositories per AFR 95-4, Audiovisual Records Disposition Program. All news photos are released to the media except photographs that are of purely

local interest. Original negatives of local interest are handled under Part 806 of this chapter.

(k) Coordinates with the command AV OPR and AAVS each plan for AV support. Sends a copy of the plan to MAC/XOZT and XPPV, AAVS, DOD, HQ USAF/XOODV, and SAF/OI.

§ 822.11 AAVS responsibilities.

As the Air Force agency of primary responsibility for AV recording (Part 811a of this chapter), AAVS:

(a) Provides the means to get, process, and reproduce professional AV materials.

(b) Complies with the responsibilities for producing and procuring motion pictures outlined in AFR 95-14.

(c) Responds to requirements for documentation photography under Part 811a of this chapter.

(d) Responds to AV targets of opportunity in keeping with its mission outlined in AFR 23-37, Aerospace Audiovisual Service.

§ 822.12 Newsfilm.

This includes two types of still photographs and motion picture film: Perishable, in which timely release is critical; and feature, in which the time element is of less importance.

(a) "Newsflash," as used here, is an immediate requirement to get and give film to a newsfilm pool.

(b) "Newsflash" requires fast response, processing, editing, and distributing limited quantities of pictorial material for immediate use by news media. News material may be released when time is critical.

(c) If time is not a factor, or if media deadlines permit, Air Force media requirements may be satisfied by using film copies of instrumentation or documentary coverage. Time is critical in deciding whether documentation or instrumentation photography can be used to satisfy media requirements.

(d) Air Force newsfilm photography of key activities is made except when:

(1) AV coverage is being planned by national news media. In this case, support to the news media is the prime objective. News media coverage does not eliminate the Air Force need to record such activities per Part 811a of this chapter.

(2) The physical environment of technical limitation allows only one recording source. In this case, instrumentation or documentation recording has priority. Arrangements should be made with the recording agency to take film from the instrumentation or documentation material.

(e) The medium for motion picture coverage is 16mm color. The DOD newsfilm pool accepts either unprocessed or processed film. If film is to be sent in unprocessed, 16mm EF is preferred. If processed footage is sent, a 16mm "B" wind master is required. Color videotape may be used in place of a motion picture film.

(f) Still photography is done in black and white negative, 2¼" or 35mm format. Color negative or transparency in either format may be used if black and white is not available. Film may be sent in processed or unprocessed. If unprocessed, the photographer must note any special processing instructions on each roll. Photography must have background fact sheets, cover stories, and full captions on each shot, to include: (1) Personnel identification, military rank, and full name; (2) location, equipment, or facility identification; (3) brief description of each scene.

(g) If both motion picture and still photographs are sent for possible national release, send only one fact sheet, but caption each roll or photo.

(h) After their use, all original material must be sent to an Audiovisual Depository (see AFR 95-4).

§ 822.13 How to request coverage for release through the DOD newsfilm pool.

(a) Spot news usually happens without notice. When events occur, the Office of Information closest to the scene must quickly decide to either ask for AAVS help or use its own resources for coverage. In these circumstances, the Office of Information:

(1) Determines if event is pictorially newsworthy for still or motion picture coverage.

(2) Contacts a SAF/OIPL action officer or the SAF/OI duty officer to discuss the event and determine how

to get coverage. If time is critical, requests the MAJCOM to decide on the spot. Coordination between the MAJCOM/OI, AV OPR, and SAF/OIPL is required when time permits. If there is only time to use available resources, assigns coverage and then contacts SAF/OIPL or the command to consider followup coverage.

(3) Gives AAVS, if their support is needed, the name of local contact to discuss billeting, transportation, access requirements, arrival time, etc. The Office of Information of the base concerned assigns a liaison officer and arranges support requirements for the team, including aircrew positions or military transportation as required. Makes sure that SAF/OIPL, HQ USAF/XOODV, MAC/XPPV, and the command AV OPR are information addressees on all messages and correspondence.

(b) Shipping the film to a designated location is an important step. The liaison officer can help by providing information on commerical airline and military air mission schedules.

(c) Detailed plans to get and release documentation coverage of special events must be sent to SAF/OIP for approval at least 4 weeks before the event.

§ 822.14 How to release newsfilm through the DOD newsfilm pool.

(a) Newsfilm normally is released by SAF/OIP to the DOD newsfilm pool in Washington, D.C. However, when it is time critical, other distribution points may be designated by SAF/OIP.

(1) Coverage for release to the DOD newsfilm pool in Washington is rushed to SAF/OIPL under Operation Newsflash procedures. The command initiating the requirement must coordinate in advance with SAF/OIPL and confirm the use of newsflash, the mode of delivery, quantity of material, and the anticipated arrival time in Washington.

(2) If shipping film to SAF/OIPL from other than Air Force installations it may be shipped via commercial air freight collect. IMPORTANT: When possible, film must be shipped nonstop. The film must be shipped from the airlines air freight counter direct to Washington National Airport. (Dulles Airport may be used as an alternate if service is not available to Washington National.) The package must be marked: NEWSFLASH—DO NOT X-RAY. It must be addressed:

> Secretary of the Air Force, Office of Information, hold at airport for pickup, please contact 695-9665 on arrival.

The waybill and shipping label must contain the following typed statement: "Convert to Government Bill of Lading at Andrews AFB, Md." Once the shipment has been made, the AV team chief telephones the waybill number, flight number, air carrier's name, departure and arrival times, stops en route, and destination airport to:

(i) SAF/OIPL immediately during duty hours, Autovon 225-9665, or

(ii) SAF/OI duty officer, after duty hours. The SAF/OI duty officer can be reached by calling the Pentagon Air Force Operations Center, 202-695-7220 or 202-695-2270.

(3) If the shipment is made by military air or United Parcel Service (UPS) Blue Label, the package should be addressed in the same number, but the conversion statement is not required. Special military airlift or "Cold Rush" procedures may be established for this requirement; however, coordination with MAC/XPPV is required for "Cold Rush" airlift.

(b) If the newsfilm is to be released to a DOD newsfilm pool other than Washington, D.C., the AV team chief:

(1) Coordinates in advance with SAF/OIP.

(2) Obtains from SAF/OIPL a DOD release number and the name and address of the DOD newsfilm pool recipient.

(3) Clearly marks each film package and all related caption material with the DOD release number.

(4) Confirms with SAF/OIPL the quantity and content of photography (motion picture footage and number of still photos), and the scheduled release time at the release point.

(5) Informs SAF/OIPL of the amount of 16mm film or videotape, and number of still photos released; identifies the news media showing an interest in the released material (if

known), and content of accompanying written material released. A "B" wind master and print of motion picture film and five copies of still photos with original negatives must be forwarded to SAF/OIPL as soon as possible.

PART 823—INDIVIDUALS AND ORGANIZATIONS

Sec.
823.1 Purpose.
823.2 Definitions.
823.3 List of patrons.
823.4 Identification of patrons.

AUTHORITY: 10 U.S.C. 8012.

SOURCE: 38 FR 5632, Mar. 2, 1973, unless otherwise noted.

§ 823.1 Purpose.

This part lists the individuals, organizations and activities entitled to commissary store privileges, except in foreign countries where prohibited by treaty or other international agreements, and sets forth instructions regarding the identification of authorized patrons.

§ 823.2 Definitions.

As used throughout this part, the following terms shall have the meanings set forth in paragraphs (a) through (o) of this section.

(a) *Military department.* The Department of the Army, the Department of the Navy, the Department of the Air Force, and the Marine Corps.

(b) *Armed Services.* The terms "Armed Services" and "Services" means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(c) *Uniformed Services.* The term "Uniformed Services", unless otherwise qualified, means the Army, Navy, Air Force, Marine Corps, Coast Guard, Commissioned Officers of the National Oceanic and Atmospheric Administration and Public Health Service.

(d) *United States.* The fifty (50) States and the District of Columbia.

(e) *Continental United States.* The term "Continental United States (CONUS)" means the forty-eight (48) States and the District of Columbia.

(f) *Commissary store.* Army Commissary Store, Navy Commissary Store, Air Force Commissary Store, and Marine Corps Commissary Store.

(g) *Uniformed personnel.* Members of the Army, Navy, Air Force, Marine Corps, Coast Guard; Cadets and Midshipmen of the U.S. Army, Navy, Air Force, and Coast Guard Academies, commissioned officers of the National Oceanic and Atmospheric Administration; commissioned officers of the Public Health Service, and members of the Reserve components as defined in paragraph (h) of this section, on extended active duty or undertaking active duty for training in excess of 72 hours.

(h) *Reserve components.* The Army National Guard and Air National Guard of the United States; the Army Reserve, the Naval Reserve, the Air Force Reserve, the Marine Corps Reserve, the Coast Guard Reserve, and Reserve Officers of the Public Health Service.

(i) *Dependents.* (1) A lawful wife.

(2) A lawful husband who resides in the same household as the sponsor.

(3) Children who are under 21 years of age and unmarried and who are either legitimate, adopted children, stepchildren, or wards and who are in fact dependent for over half of their support from the sponsor and who reside full time in the same household as the sponsor.

(4) Children who are 21 years of age or over and unmarried and who are in fact dependent for over half their support from the sponsor and who reside full time in the same household as the sponsor and who are either legitimate or are adopted children, stepchildren or wards and who are (i) incapable of self-support because of a mental or physical handicap or (ii) have not passed their 23d birthday and are enrolled in a full time course of study at an approved institute of higher learning.

(5) Parents, including father, mother, father-in-law, mother-in-law, stepparent and parent by adoption who are in fact dependent for over half of their support from the sponsor and who reside full time in the same household as the sponsor.

(j) *Surviving spouse.* Widow or widower who have not remarried (or if remarried have reverted through divorce

or the demise of the spouse to an unmarried status), of the following:

(1) Member of the Regular Army, Navy, Air Force, Marine Corps, and Coast Guard.

(2) Retired personnel of the Army, Navy, Air Force, Marine Corps, and Coast Guard as defined in paragraph (k) of this section.

(3) Nonregular personnel of the Army, Navy, Air Force, and Marine Corps entitled to disability benefits pursuant to 10 U.S.C. 3687, 6148, and 8687.

(4) Members of the Army of the United States, Air Force of the United States, inductees of the U.S. Navy, and inductees of the U.S. Marine Corps who died in line of duty while on active duty.

(5) Members of the Reserve components who died in line of duty while on active duty, including active duty for training and inactive duty training, such as drills.

(6) Personnel of all Reserve components retired with pay pursuant to 10 U.S.C. Chapters 67, 367, 571, and 867.

(7) Members of the Fleet Reserve and Fleet Marine Corps reserve.

(8) Personnel of the emergency officers' retired lists of the Army, Navy, Air Force, and Marine Corps who have been retired pursuant to section II, Act of September 2, 1958, Pub. L. 85-857.

(9) Active duty and retired officers and crews of vessels, light keepers, and depot keepers of the former lighthouse service.

(10) One hundred percent service-connected disabled veterans.

(11) Active duty and retired commissioned officers of the Public Health Service.

(12) Retired commissioned officers, ship officers, and members of the crews of vessels of the Coast and Geodetic Survey (33 U.S.C. 868a).

(13) Retired commissioned officers of the Environmental Science Services Administration.

(14) Active duty and retired commissioned officers of the National Oceanic and Atmospheric Administration.

(k) *Retired personnel.* (1) All personnel carried on the official retired lists of the uniformed services as defined in paragraph (c) of this section, who are retired with pay or granted retirement pay for physical disability.

(2) All members of the Reserve components as defined in paragraph (h) of this section, retired with pay or granted retirement pay for physical disability pursuant to 10 U.S.C. Chapter 61 and 10 U.S.C. 3687, 6148, and 8687.

(3) Personnel of the Reserve components retired with pay or granted retirement pay pursuant to 10 U.S.C. 1331, 3911, 6323, and 8911.

(4) Personnel of the emergency officers' retired list of the Army, Navy, Air Force, and Marine Corps who were retired pursuant to section II, Act of September 2, 1958, Pub. L. 85-857.

(5) Retired officers and crews of vessels, light keepers, and depot keepers of the former lighthouse service (33 U.S.C. 754a).

(6) Retired commissioned officers, ship officers, and members of the crews of vessels of the Coast and Geodetic Survey.

(7) Retired commissioned officers of the Environmental Science Services Administration.

(l) *Civilian employees of the Coast Guard.* Former officers or employees of the lighthouse service, who as such on June 30, 1939 were serving as officers or crew on lighthouse service vessels, light keepers, or depot keepers in the lighthouse service, and are now civilian employees of the Coast Guard serving as lighthouse keepers or on board lightships or other Coast Guard vessels (33 U.S.C. 754a).

(m) *Agents.* In the case of individual patrons, an "agent" is defined as a member of a household maintained by or for an authorized commissary store patron who has designated such individuals to act in his/her behalf. In addition, an agent must qualify as a dependent, as defined in paragraph (i) of this section. In extreme hardship cases and when no adult dependent member is capable of shopping, due to sponsor being stationed away from his/her household or due to a physical disability or when the spouse is unable to shop due to sickness, temporary designation as agent of persons not meeting the dependent criteria may be made at the discretion of the Commanding Officer at the command level designated by the respective Military Department

for periods not to exceed 1 year. Authorization may be extended in instances where hardship continues to exist. In the case of organization or activities, an agent is defined as a representative designated by the person responsible therefor.

(n) *Extended active duty.* Full time duty in the active military service of the United States, entered into with the original expectation of serving for an indefinite or stated period of time, other than active duty for training.

(o) *Active duty for training.* Full-time duty in the active military service of the United States for training purposes. The full-time training or other full-time duty performed by members of the Army National Guard and the Air National Guard of the United States while in their status as members of the Army National Guard or Air National Guard of the several States, territories, or the District of Columbia, pursuant to law, for which they are entitled to receive pay from the United States, shall be considered active duty for training in the service of the United States as members of the Reserve components of the Armed Forces. Commissary privileges are authorized such members when on active duty for training, providing such period of active duty for training is in excess of seventy-two (72) hours.

§ 823.3 List of patrons.

Commissary store privileges are authorized for the classes of individuals, organizations, and activities set forth below.

(a) *Uniformed personnel.* All uniformed personnel, as defined in § 823.2(g).

(b) *Retired personnel.* All retired personnel, as defined in § 823.2(k).

(c) *Fleet Reserve personnel.* Enlisted personnel transferred to the Fleet Reserve of the Navy and the Fleet Marine Corps Reserve, after sixteen (16) or more years of active service. (These personnel are equivalent to Army and Air Force retired enlisted personnel.)

(d) *Surviving spouse.* Surviving spouse as defined in § 823.2(j).

(e) *Armed Services personnel of foreign nations.* Officers and enlisted personnel of the Armed Services of foreign nations as follows:

(1) When on duty with U.S. Armed Services under competent orders issued by the U.S. Army, Navy, Air Force, or Marine Corps.

(2) Officers and crews of naval vessels of friendly nations visiting U.S. ports where commissary stores are located (quantities shall be limited to the immediate needs of the purchaser).

(3) In overseas areas when determined by the major overseas commander or commandant that the granting of such privileges is in the best interests of the United States and such persons are connected with, or their activities related to the performance of functions of the U.S. military establishment.

(4) Excluded are officers and enlisted personnel of foreign nations, retired or on leave in the United States or when attending U.S. schools, but not under orders issued by the U.S. Army, Navy, Air Force, or Marine Corps.

(f) *Official organizations and activities of the Armed Forces.* Official organizations and other resale activities of the U.S. Armed Services, except concessionaires, which are operated for uniformed personnel on active duty.

(g) *Government departments or agencies outside the Department of Defense.* Government departments or agencies outside the Department of Defense when supplies can be furnished without unduly impairing the service to commissary store patrons and when the local commanding officer determines that the desired supplies cannot be conveniently obtained from civilian agencies.

(h) *Hospitalized veterans.* Honorably discharged veterans of the Uniformed Services of the United States, including Coast Guard when hospitalized where commissary store facilities are available. (Does not include honorably discharged veterans receiving outpatient treatment.) (10 U.S.C. 4621e, 7603, and 9621e.)

(i) *Totally disabled veterans.* Honorably discharged veterans of the Uniformed Services of the United States with a one hundred percent (100 percent) service-connected physical dis-

ability. Each disabled veteran authorized these privileges shall be permitted to designate one agent for the purpose of making purchases in his/her behalf.

(j) *Civilian officers and employees of the U.S. Government stationed outside of the United States.* Under the direction of the overseas commander or the commandant, privileges may be extended to civilian officers and employees of the U.S. Government and to such other persons as may be specifically authorized by the Secretary of the Military Department concerned.

(k) *Civilian officers and employees of the Armed Services within the United States.* Privileges may be extended to civilian officers, including contract surgeons and employees of the Armed Services and to other persons when specifically authorized by the Secretary of the Department concerned and when it is impracticable for the said civilian officers and employees and other persons to procure such commissary store supplies from civilian agencies without impairing the efficient operations of the installation. Privileges will not be extended to civilian officers and employees of the Armed Services and other persons who do not reside within the military installations. The term "military installation" is defined as the installation at which the civilian officers, employees or other persons reside. Privileges will not include the purchase of tobacco products in these States, including the District of Columbia, which impose a tax on such products.

(l) *American National Red Cross personnel stationed outside the United States.* Privileges may be extended to all uniformed and nonuniformed, full time, paid professional and headquarters staff personnel and uniformed, full time, paid secretarial and clerical workers of the Red Cross, who are assigned to duty with the Armed Services by the Red Cross. Extension of such privileges will be determined by the major overseas commander or commandant upon the capability and without detriment to his ability to fulfill his military mission.

(m) *American National Red Cross personnel stationed within the United States.* Privileges may be extended to all uniformed and nonuniformed, full time, paid professional and headquarters staff personnel of the Red Cross who are assigned to duty with the armed services by the Red Cross and who reside within the military installation as defined in paragraph (k) of this section.

(n) *Retired personnel of the former Lighthouse Service.* Retired officers and crews of vessels of the former Lighthouse Service and retired light keepers and depot keepers of the former Lighthouse Service.

(o) *Civilian employees of the Coast Guard.* Civilian employees of the Coast Guard as defined in § 823.2(l).

(p) *Retired civilian employees of the Coast Guard.* Retired civilian employees of the Coast Guard who on June 30, 1939, were serving as officers or crew on Lighthouse Service vessels, light keepers or depot keepers of the former Lighthouse Service and who after June 30, 1939, and at the time of retirement were civilian employees of the Coast Guard serving as lighthousekeepers or on board lightships or other Coast Guard vessels.

(q) *United Service Organization including Young Men's Christian Association.* At installations where Young Men's Christian Association buildings have been constructed pursuant to 10 U.S.C. 4778, the duly appointed secretaries of the Young Men's Christian Association, when serving at the installation, will be permitted to purchase subsistence supplies as are necessary for use in connection with official activities. Where it is within the capability as determined by the major overseas commander or commandant and without detriment to his ability to fulfill his military mission, commissary store privileges may be extended to United Service Organization and its member agencies clubs to purchase subsistence supplies for use in such club snackbars. For the purpose of this paragraph "overseas area" is defined as concerning all areas other than the United States, Puerto Rico, and Guam.

(r) *United States nongovernmental, nonmilitary agencies, and individuals in overseas commands.* Commissary store support may be authorized in overseas commands by the Secretary of the Military Department concerned,

on a reimbursable basis, when such agencies and individuals are serving the U.S. Forces exclusively and when it has been determined that the granting of the privilege would be in the best interest of the United States and failure to grant such privileges would impair the efficient operation of the U.S. military establishment.

(s) *Agents.* Under regulations prescribed by the Military Department each authorized patron shall be permitted to designate his/her spouse and other dependent member(s) as defined in § 823.2(i) who are entitled to DD Form 1173 (Uniformed Services Identification and Privilege Card) as his/her agent(s) for the purpose of making purchases on his/her behalf. If the designated agent(s) of the authorized member is incapable of shopping at the commissary store, temporary designation of an additional agent of persons not authorized above, may be made at the discretion of the local commanding officer. Authorization format will be such as to permit positive identification and will be effective for a period as determined by the Military Departments but not to exceed 1 year in duration. Authorization periods may be extended in instances where hardship continues to exist as determined by the local commanding officer. Individuals currently authorized to make purchases in their own right, or their authorized agent(s), may under circumstances as outlined above, also purchase subsistence supplies for authorized commissary patrons.

(t) *Recipients of the Medal of Honor.*

§ 823.4 Identification of patrons.

(a) *Positive identification required.* Any individual who seeks to make a purchase from a commissary store shall be positively identified as an authorized patron prior to entering or prior to consummation of sale. U.S. Armed Services personnel, on active duty, for periods in excess of seventy-two (72) hours, who present themselves in the prescribed military uniform may be identified thereby when in the judgment of the Military Commander concerned, such procedure is justified. The prescribed identification of nonuniformed patrons shall be carefully checked to insure that each individual is entitled to the privileges which he/she seeks.

(b) *Types of identification required.* Subject to the instructions contained in paragraph (c) of this section, authorized patrons of commissary stores shall be identified by the complete regulation uniform, by an official Armed Services identification card, by an official Uniformed Services identification and privilege card, by an official identification card issued by the service of which the patron is a member or as prescribed in § 823.3(s) or paragraph (d) of this section. All identification media shall bear the signature of the person to whom issued.

(c) *Identification procedures.* Except for personnel in complete regulation uniform, commissary stores will accept the identification cards as referred to in paragraph (b) of this section, as proper identification for the following: Uniformed personnel as defined in § 823.2(g); dependents as defined in § 823.2(i); surviving spouse as defined in § 823.2(j); retired personnel as defined in § 823.2(k); civilian employees of the Coast Guard as defined in § 823.2(l); and agents as defined in § 823.2(m). In addition to the identification cards referred to in paragraph (b) of this section, members of the Reserve components will be identified subject to instructions contained in paragraph (d) of this section.

(d) *Reserve components identification procedures.* Members of the Reserve components, as defined in § 823.2(h), who are ordered to active duty, as defined in § 823.2(o), for periods in excess of seventy-two (72) hours will be required to produce competent orders indicating their training status to include length of such training. In lieu of identification cards eligible dependents of Reserve component members will be identified as follows: By a letter of authorization or endorsement on individual orders authenticated by the Reserve unit commander or receiving unit commander and containing name, rank, social security number or service number of sponsor, beginning and ending dates of sponsor's tour of duty, name of individual dependent(s) and relationship to sponsor, designa-

tion of commissary store agent privileges, and signature of dependent.

PART 824—AIR FORCE PARTICIPATION IN PUBLIC EVENTS

Sec.
824.1 Purpose.
824.2 Policy.
824.3 Definitions.
824.4 General policy for participation.
824.5 Funding policy.
824.6 Approval requirements.
824.7 Use of aircraft.
824.8 Use of personnel, facilities, and equipment.
824.9 Loan of equipment and base facilities.
824.10 Requests for participation.
824.11 General instructions.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: 35 FR 19505, Dec. 23, 1970, unless otherwise noted.

§ 824.1 Purpose.

This part governs official Air Force participation in public events and community relations programs.

§ 824.2 Policy.

(a) This part tells when Air Force participation may or may not be provided for public events and community relations programs.

(b) Does not govern Armed Forces Day activities except as noted and does not apply to appearances on commercially sponsored audiovisual media.

(c) Does not restrict or control the participation of individual members of the Air Force in community activities. Such participation is desirable and encouraged on a personal off-duty basis and helps to create and sustain public awareness of the civic responsibilities assumed by the Air Force personnel.

§ 824.3 Definitions.

(a) *Additional cost to the Government.* The operation and maintenance (O&M) costs of providing Air Force resources for a public event of mutual interest, i.e., the expenditure of appropriated funds to participate in the event. Additional costs include but are not limited to: Travel and transportation of participating military personnel and their equipment; per diem allowances payable under the provisions of the Joint Travel regulations; transportation of exhibit materials when shipped by commercial means; rental space, utilities and custodial services; and the cost of handling and transporting aviation fuel, if such fuel is not available at a military contract price at the airport staging base. Also included are any additional services determined necessary by the participating units and agreed upon by the sponsor.

(b) *Aerial demonstrations.* Flight demonstrations, parachute jumps, personnel or equipment drops by Air Force personnel or aircraft in public events and community relations programs.

(c) *Aircraft demonstrations.* A demonstration of tactical capabilities by a single aircraft or group of aircraft not constituting an officially designated flight demonstration team. Such demonstrations include air-to-air refueling, helicopter hover and pickup, Low Altitude Parachute Extraction System drops, maximum performance takeoffs, etc.

(d) *Aerial review.* A flyover of multiple types of aircraft representing one or more of the military services.

(e) *Air Force exhibits.* Any display of Air Force material for public affairs purposes, including presentations by the Orientation Group, USAF. Specifically included are items of equipment, models, devices, and information and orientation material. Also included are general purpose displays in public buildings or public locations. Excluded are operable aircraft.

(f) *Air Force participation.* Includes any use of Air Force personnel as individuals or as units; facilities; and material to include aircraft, exhibits, and equipment in support of community relations programs.

(g) *Air Force share of costs.* Those continuing type costs which would exist if the Air Force did not participate in the event. These include regular pay and allowances of the personnel; small incidental base expenses such as local transportation, and telephone calls; and other minor expenses as may be determined by the Air Force commander responsible for participating in the event. The use of opportune

airlift or routine training flights of military aircraft for the transportation of military personnel and exhibit materials may be requested. If available and approved, their use is also considered to be an Air Force share of costs as authorized by AFR 190–13 (Use of Military Carriers for Public Affairs Purposes). This applies to support of other services whose participation in an event has been authorized.

(h) *Base.* Any type of Air Force installation on active status, including government owned or leased facilities at a municipal or county airport.

(i) *Classes of public events.* (Corresponding classifications may be made in oversea areas by the Unified and Specified commanders.)

(1) *International event.* Audience and/or participation from the United States and at least one other nation.

(2) *National event.* Audience and/or participation from the United States as a whole.

(3) *Regional event.* Audience and/or participation from two or more States of the United States.

(4) *State event.* Audience and/or participation from the State as a whole.

(5) *County event.* Audience and/or participation from more than one community within a county, from a county as a whole, or from several counties.

(6) *Local event.* Audience and/or participation which centers on and is of primary interest to a single community.

(j) *Community relations area.* The geographical area wherein Air Force facilities and/or personnel have a social or economic impact on the populace.

(k) *Flight team demonstration.* A demonstration of tactical techniques by an officially designated unit, i.e., the USAF Thunderbirds.

(l) *Flyover.* A flight not involving aerobatics or demonstrations, of one or more aircraft over a fixed point at a specific time.

(m) *Fraternal groups.* Societies whose members are banded together for mutual benefit or for work toward a common goal. They include, but not limited to, such organizations as the Fraternal Order of the Eagles, Benevolent and Protective Order of Elks, Loyal Order of the Moose, Free and Accepted Masons (Scottish Rite, York Rite, and Shrine), Knights of Columbus, Knights Templar, Independent Order of Odd Fellows, and Order of the Eastern Star. Service or luncheon clubs, such as Rotary International, Kiwanis International, Lions International, Optimists, Toastmasters International, or Junior Chambers of Commerce, are not considered fraternal groups.

(n) *Fund raising.* The avowed or unannounced purpose of any event or activity which, by any device, seeks to acquire money or material in excess of actual costs of the event or activity for charity or for other purposes.

(o) *Holidays.* (1) National holidays are those prescribed by Federal Law, i.e., New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Veterans Day; Thanksgiving Day; and Christmas Day.

(2) Armed Forces Day (3d Saturday in May) will be treated as a National holiday for purposes of this part.

(3) State holidays are those officially proclaimed by an individual State as holidays to be observed in that State.

(4) Primary, general, and special election days are not considered holidays.

(p) *Mutual interest event.* An event mutually beneficial to DOD or USAF and the sponsor.

(q) *Official functions*—(1) *Official civic functions.* Those public events sponsored and conducted by State, county, or municipal governments, to include in oversea areas corresponding authorities of the host nation. Official civic functions include inaugurations, dedications of public buildings and projects, the convening of legislative bodies, and ceremonies for officially invited Government visitors.

(2) *Official military functions.* Those activities held on military installations (or in the civilian domain when suitable facilities are not available on base) which are sponsored by the Military Service for the promotion of esprit de corps. These events should be conducted primarily for active duty personnel and their guests. Non-Federalized National Guard functions and nonextended active duty Reserve ac-

tivities are not considered to be official military functions for the purposes of this part.

(3) *Official Government functions.* Those events in which senior officials of the Federal Government are involved in the performance of their official duties.

(r) *Parachute team demonstration.* A demonstration of parachute techniques by the officially designated unit, the U.S. Army Golden Knights. Other military parachute teams, including an individual or group, may be specifically authorized for such demonstrations when representing the Department of Defense.

(s) *Personnel, facilities, and equipment utilization.* The use or appearance of individuals, groups, or units of military personnel, performing units and marching units, drill teams, drum and bugle corps; single-Service color guard details, honor and security cordons, military bands and choral groups or their components; use of Air Force facilities, to include aircraft, and installations, and the use of Air Force material and equipment to include exhibits and lendable or donatable items for community relations purposes.

(t) *Primary interest.* An event primarily beneficial to DOD or USAF.

(u) *Public affairs.* Those public information and community relations activities directed toward the general public by the Air Force.

(v) *Public events.* Programs held in the civilian domain to include all ceremonies, demonstrations, exhibitions, expositions, athletic contests, fairs, trade or air shows, conventions, meetings, or symposia or similar programs intended primarily for nonmilitary audiences. Exercises, movements or maneuvers, conducted as a part of military training, even though incidentally observed by the general public, are not considered public events.

(w) *Static display.* The ground display of any aircraft and its related equipment, not involving flight, taxiing, or starting of engines.

(x) *Veterans organizations.* Nationally recognized bona fide veterans organizations include, but are not limited to, the American Legion, Veterans of Foreign Wars, Disabled American Veterans, American Veterans of World War II and Korea (AMVETS), Military Order of the World Wars, Medal of Honor Society, Catholic War Veterans, Jewish War Veterans, and auxiliaries and youth societies officially attached to the veterans organizations.

(y) *Washington, D.C. Area (National Capital Area).* The District of Columbia; the city of Alexandria, Va.; the counties of Arlington and Fairfax, Va.; and the counties of Montgomery and Prince Georges, Md.; together with incorporated municipalities lying within their borders.

§ 824.4 General policy for participation.

The following policies and guidelines apply to all Air Force participation in public events and should be used to evaluate requests:

(a) Participation is authorized, encouraged, and essential, within the limits defined in this part, to:

(1) Inform the public on Air Force preparedness and promote national security;

(2) Demonstrate U.S. partnership with allies in collective security;

(3) Develop public understanding of the Air Force mission;

(4) Assist Air Force personnel procurement programs; and

(5) Aid community relations. Commanders at all levels will give positive emphasis to the importance of good community relations in the execution of their mission.

(b) All participation will be subject to:

(1) Operational requirements and availability of resources;

(2) The interests of DOD, the Air Force, and the public at large; and

(3) Cost considerations.

(c) This part does not authorize the release or downgrading of classified equipment or information.

(d) Participation and cooperation must not directly or indirectly endorse or selectively benefit or favor or appear to endorse or selectively benefit or favor any private individual, group, corporation (whether for profit or nonprofit), sect, quasi-religious or ideological movement, fraternal organization, political organization, or commercial venture, or be associated

with the solicitation of votes in a political election.

(1) Included among the organizations which may not be selectively benefited or favored are: Religious and sectarian groups; fraternal organizations, such as Knights of Columbus, Loyal Order of the Moose, or B'nai B'rith; and quasi-religious or ideological movements or organizations, such as Moral Rearmament, "Sing Out," and "Up with People."

(2) Providing use of Government facilities, such as transportation, housing, or messing, at Government expense is a prohibited type of selected benefit or favor.

(3) The restriction on endorsing or selectively benefiting private organizations should not be interpreted as barring any group that offers to provide entertainment on base to military personnel, civilian employees, or dependents. However, promotion of the groups' objectives through handouts, speeches, program content, or other forms of promotion in connection with the entertainment, including the period before and after the entertainment is strictly prohibited.

(e) Participation must not support advertising, publicity, promotional activities or events which benefit or favor a commercial venture.

(f) At events where admission is to be charged, Air Force participation is normally limited to that which is incidental to the program and not the major event. A general admission charge does not necessarily prohibit participation. However, specific or additional charge will not be made to defray the cost of Air Force participation or to observe the participation. This paragraph does not apply to the U.S. Air Force Band, Washington, D.C., when it is engaged in authorized concert tours.

(g) Participation in support of nationally recognized veterans' organizations is authorized when the program or event is oriented exclusively to the veteran. Participation is not appropriate when it supports an organization's sectarian or nation origin objectives. Similarly, participation in support of nonpublic schools is authorized only if it is clearly in support of educational or Air Force personnel recruiting programs.

(h) Participation is not authorized when the sponsoring organization or group excludes any person from its membership or practices any form of discrimination in its functions based on race, creed, color, or national origin.

(i) Participation in any public event is authorized only if admission, seating, and all other accommodations and facilities connected with the event or activity are available to all without regard to race, creed, color, or national origin.

(j) Participation in support of fundraising events is normally limited to:

(1) Officially recognized federated and joint campaigns such as United Funds, Community Chest, Federal Service Campaign for the National Health Agencies, etc.

(2) Fund appeals authorized by the President or the Chairman of the Civil Service Commission.

(3) Collections for authorized military aid societies.

(4) Public or sports events held for the sole purpose of raising funds for United States teams competing in the Pan-American Games and Olympic Games. As an exception, Unified and Specified Commands may participate in athletic or sports competitions within their commands in support of local or indigenous fundraising efforts.

(k) Participation is not authorized for a single cause, even though it is a member of an officially recognized campaign, nor for an event where proceeds are to be donated only in part to one or several members of the recognized campaigns. These provisions do not prohibit Air Force personnel from participating as private citizens in voluntary agency fundraising activities which are not recognized for on-the-job solicitation within the Federal Government. However, Air Force personnel may not participate in their official capacity either during duty or nonduty hours, nor may such participation be conducted as an official command-sponsored project.

(l) Participation is not authorized in public events for which civilians should properly be employed or when the presence of Air Force participants

deprives civilians of opportunities for employment.

(m) Maximum advantage of personnel procurement potential will be taken at appropriate events in which the Air Force participates.

§ 824.5 Funding policy.

The basic Air Force policy is to keep costs of Government participation to a minimum, consistent with community relations objectives. This can best be done by using resources available in the local community relations area. Avoid planning or encouraging types of participation which require additional cost to the Government unless such participation is in the best interest of the Air Force. In determining payment for costs of participation, there are two categories of events: Primary interest, with all costs borne by the Air Force; and Mutual Interest, with costs shared by the Air Force and the sponsor. The following guidelines apply.

(a) Events of primary interest, for which a unit commander is normally authorized to bear all costs of participation, are:

(1) DOD, USAF, or civic-sponsored public observances of United States or host country national holidays.

(2) Official civil ceremonies and functions.

(3) Speaking engagements.

(4) Programed tours by the USAF Orientation Group which are designed to accomplish a priority public information or community relations objective.

(b) Events of primary interest, for which a unit commander may bear all costs after obtaining approval as specified in § 824.6, are:

(1) Tours by units such as the USAF Band, Washington, D.C., when appropriated funds are specifically provided for such participation.

(2) Events considered to be in the National interest because of some unique or unusual benefit to the United States.

(3) Events considered to be in the professional, scientific, or technical interest of the Air Force.

(c) Participation in public events of mutual interest will be accomplished at no additional cost to the Government. Sponsors are required to pay the additional costs explained in § 824.3(a). They do not pay the Air Force share of costs explained in § 824.3(g). Normally, sponsors must pay the standard per diem rate as prescribed in the Joint Travel Regulations for each Air Force participant rather than provide meals and quarters.

§ 824.6 Approval requirements.

Except as noted in this section, major commands and the National Guard Bureau are delegated authority to approve the use of resources under their control according to this part. Major commands and the National Guard Bureau may delegate approval authority. Delegation to the commander having the resources to provide the requested participation is encouraged.

(a) The following events or programs require approval of the Assistant Secretary of Defense (Public Affairs) through channels to the Secretary of the Air Force (SAFOIC):

(1) Public events in the Washington, D.C., Area (National Capital Area).

(2) National and international events, including national conventions and meetings.

(3) Events in areas outside the United States which are not within a unified or specified command area.

(4) Any general aircraft or parachute demonstration in the public domain within the United States.

(5) Any aerial review in the public domain, and aerial reviews involving more than one military service on a military installation within the United States. Approval will be considered only for exceptional events of national interest.

(6) Flyovers in the public domain within the United States, except for civic-sponsored public observances of, or official ceremonies for Armed Forces Day, Memorial Day, Independence Day, and Veterans Day.

(7) Performance by the Thunderbirds in the public domain, within or outside the United States.

(8) Requests for participation of special operational units such as special forces and helicopter rescue teams in

the public domain. Authorization will be considered on an individual basis.

(9) Participation in preseason, postseason, or known programed national sports and/or professional athletic events within the United States.

(10) Events of professional, technical, or scientific interest to the Air Force, when participation will result in additional cost to the Government. Requests will include an estimate of the expenses.

(11) Requests for aircraft to engage in performance demonstrations for the purpose of establishing new records for altitude, speed and endurance. Submissions will include a description of the specific aircraft to be used and full justification for the proposed record attempt, including supporting flight and information plans.

(12) Any exceptions to DOD policy. Requests must be specifically justified.

(b) Events or programs requiring approval of the Secretary of the Air Force (SAFOIC), through channels are:

(1) Flight demonstrations by the Thunderbirds on military installations.

(2) Special scheduled tours by the USAF Band, Washington, D.C.

(3) Displays from the USAF Art Collection, other than paintings currently on loan to the Orientation Group, USAF, as part of their exhibits inventory. The Art Program is designed to record the Air Force story on canvas for historical and documentary purposes. Special showings can be arranged for museums, community art galleries, and noncommercial art shows by contacting the Secretary of the Air Force (SAFOIC), Washington, D.C. 20330.

(4) Participation by units other than USAF Recruiting Service in any event which supports Air Force recruiting and will result in additional cost to the Government.

§ 824.7 Use of aircraft.

As practicable, flying time accrued in participating in public events will be used for flying proficiency or training purposes. The following guidelines and procedures apply:

(a) *On base participation requirements.* (1) Static displays, flyovers, single service aerial reviews, aircraft demonstrations, and flight team demonstrations are authorized on military bases and installations, occupied by active duty forces, with no indemnity insurance required.

(2) The event must be sponsored and supported by the installation commander as an "open house." A "closed show" must be requested as an exception to policy with specific justification.

(3) The provisions of AFR 60-6 (Participation in Goodwill Flights, Aerial Reviews and Weapons Demonstrations) apply, and commanders will insure that an Air Force pilot is appointed as military controller for each event involving Air Force aircraft participation.

(4) Mass parachute jumps, equipment drops, assault aircraft demonstrations, standard tactical aircraft maneuvers, or helicopter troop landings under simulated tactical conditions may be held only on military installations capable of providing necessary support and only during an "open house" event.

(5) When more than one service is involved, aerial reviews on base must be authorized by OASD/PA. Approval will be considered only for exceptional events in the national interest.

(6) Aerobatic performance or aircraft demonstrations by civilians require the approval of HQ USAF. Requests will be forwarded through channels to SAF/OIC a minimum of 60 days in advance of the event. Insurance and landing rights requirements are contained in Part 855 of Subchapter F of this chapter.

(b) *Off-base static display requirements.* (1) Static displays in the public domain are restricted to appropriate events at airfields or heliports. Exceptions to this policy will be authorized by OASD/PA only when the use of the proposed display area is operationally feasible and meets Air Force safety requirements.

(2) Qualified Air Force personnel will be available to answer spectators questions about the display.

(3) Authorized events for off-base static displays include: Official civic functions; programs celebrating national, State, or local holidays; and

events designed to encourage public comprehension of and appreciation for aerospace power.

(4) Indemnity insurance for off-base static displays is not required. Aircraft must be in place with power off before spectators assemble in the display area. Engines on these aircraft cannot be started until all spectators have departed the display area.

(5) Static displays are normally limited to 2 days at each event.

(6) Sponsor costs will be according to § 824.5.

(c) *Off-base flyover requirements.* (1) For civic-sponsored public observances of, and official ceremonies for, Armed Forces Day, Memorial Day, Independence Day, and Veterans Day, approval authority for a flyover of four or less aircraft is delegated to major commands.

(2) Other flyovers and/or aerial reviews in the public domain must be approved by the Assistant Secretary of Defense (Public Affairs). Requests will be forwarded through channels to the Secretary of the Air Force (SAFOIC).

(3) To minimize interference with operations and training of air units, off-base flyovers normally will be approved by DOD only for the following:

(i) Memorial services for dignitaries of the Armed Forces or the Federal Government.

(ii) Celebrations and receptions for dignitaries of foreign governments, when requested by the White House or Department of State.

(iii) National conventions of bona fide veterans organizations.

(iv) Occasions primarily designed to encourage the advancement of aviation and which are of more than local interest.

(4) Flyovers of events where a military air demonstration team is participating are not authorized.

(5) The sponsor has no financial obligation for off-base flyovers, and no indemnity insurance is required.

(6) Approval for off-base flyovers of more than four aircraft will be considered only for exceptional events of national interest.

(7) Policies governing flyovers of funerals and memorial services are stated in AFM 143-1 (Mortuary Affairs).

(d) *Off-base aerial demonstration requirements.* (1) Sponsors must provide public liability and property damage insurance for Armed Forces flight and parachute team demonstrations and for aircraft demonstrations requiring landings and takeoffs in the public domain. This requirement applies within the 50 States. It also applies in oversea areas unless the requirement is waived by the responsible Unified or Specified Command. This insurance safeguards the Government against any claims which might arise as a result of the Armed Forces participation. This insurance requirement applies only to persons and property other than Government personnel and aircraft participating in the event, but does not exclude Government personnel present as spectators. Indemnity insurance is not required for static displays or flyovers.

(2) The DOD checklist for aerial demonstrations includes the approved insurance policy endorsement which must be quoted verbatim in the sponsor's policy. The sponsor must submit the policy directly to the Assistant Secretary of Defense (Public Affairs), Directorate for Community Relations, Pentagon, Washington, D.C. 20301, no later than 30 days before the date of the event.

(3) Sponsor costs will be determined according to § 824.5.

(4) Flight team demonstration guidelines:

(i) Demonstrations by the USAF Thunderbirds may be held only at public airports, over open bodies of water, or over suitable open areas of land where adequate crowd control can be assured.

(ii) Thunderbird demonstrations are normally limited to 2 days at events in the civilian domain. Participation may include a third day if no other event is compromised.

(iii) The team will not be scheduled when the U.S. Navy Blue Angels are performing at the same event, but may participate in conjunction with one parachute demonstration team.

(5) Aircraft demonstration guidelines:

(i) Aircraft demonstrations may be held only at public airports, over open bodies of water, or over suitable open

areas of land where adequate crowd control can be assured.

(ii) Demonstrations of this nature are normally limited to 2 days.

(6) Parachute team demonstration guidelines:

(i) Parachute team demonstrations are restricted to appropriate events over airports, open bodies of water, or open areas of land where adequate crowd control can be assured. Requests for off-base parachute demonstrations at locations other than those specified must receive DOD approval as an exception to policy.

(ii) Participation is normally limited to 3 days, but may be extended if no other event is compromised.

(iii) Only one parachute team or club from each service may participate in the same public event.

(iv) Participation by official parachute teams, parachute sports clubs, or qualified individuals in competitive parachute meets sanctioned by the U.S. Parachute Association (USPA) may be authorized, provided such competitions are not in conjunction with a public event such as a fair, exposition, or similar event. Under the above criteria, an insurance bond is not required for participation in USPA events.

(e) *Aircraft performance attempts.* Record attempts are restricted to aircraft which have been assigned to an operational unit of a military service for at least 6 months and should not imply competition among the services. Aircraft altitude, speed, endurance and individual performance record attempts must be concerned with keeping the public apprised of U.S. engineering-technical capabilities.

[35 FR 19505, Dec. 23, 1970, as amended at 37 FR 20825, Oct. 5, 1972]

§ 824.8 Use of personnel, facilities, and equipment.

(a) *General information.* (1) Air Force bands, troops, drill teams, color guards, installation facilities and materiel may support the community relations programs by participation in public events.

(2) The period of time for which an exhibit is authorized will be determined by the nature of the event and the type of the exhibit.

(3) In fulfilling requests for exhibits, base commanders should maximize the use of equipment in local resources.

(4) Sponsor costs will be determined according to § 824.5.

(b) *Participation is appropriate for.* (1) Official government, military, and civic functions.

(2) Public programs in support of DOD or Air Force personnel recruiting programs.

(3) ROTC programs, including military balls held on campus.

(4) Physical fitness programs.

(5) Free social and entertainment activities held on base or sponsored by a military unit for active duty personnel and their guests, and if held for the principal purpose of morale or esprit de corps. Participation is appropriate for similar events held off-base only if there is no suitable on-base military facility available. A charge levied to defray expenses of food, beverage, and other incidental expenses does not preclude participation.

(6) Regularly scheduled professional (commercial) and nonprofessional sports competitions and postseason college games for which an admission is charged only when participation: (i) Is incidental to the event and designed to support personnel recruiting activities; (ii) will be performed at no additional cost to the Government; (iii) does not appear to benefit the commercial aspects of the event; (iv) is consistent with section 974 of title 10, United States Code; and (v) is in the best interests of the Department of Defense and the Air Force.

(7) Community-sponsored civic parades, if held on a Sunday, a holiday, or at times when shops are closed for business. This includes Christmas parades, even though commercial firms are participating. Individual commercial ventures in such parades need not preclude participation if the parade is on civic rather than commercial aspects. Participation must be incidental to the event and at no additional cost to the Government when commercial firms are represented.

(c) *Participation is not appropriate for.* (1) Commercial motion picture premieres, commercial parades, fashion shows, or similar events conducted

90-112 O—82——12

for the benefit of commercial interests.

(2) Beauty contests or pageants and similar events, except for those which are national or international in nature. Participation may be authorized by OASD/PA when in the best interest of DOD and/or the Air Force.

(3) An Air Force athletic team or athlete in an off-base professional sporting event or in a postseason bowl game. DOD will give serious consideration to requests for approval of exception to policy only when the following conditions prevail:

(i) The participating Air Force Team(s) is (are) organized for regular season play.

(ii) The Government, or supporting non-appropriated fund, will be reimbursed from game proceeds for all travel and per diem costs.

(iii) At least 50 percent of the proceeds, after game, travel, and per diem expenses have been paid, is donated to the Air Force Aid Society or the unit welfare fund. The remainder must be donated to a charity specified in § 824.4.

(iv) The participation can be expected to bring credit to the Air Force and assist in recruiting or related personnel procurement objectives.

NOTE: Competition between a U.S. Armed Forces athletic team stationed in the United States and a team of a foreign country, regardless of the site of competition, requires OASD/PA approval before public discussion or formal acceptance may be made. Unified and Specified Commanders headquartered outside the United States may approve international athletic or sports competition within their respective commands, subject to concurrence of the U.S. Ambassador to the foreign country concerned. Such competition may be in support of local or indigenous fund-raising efforts.

(d) *Use of personnel.* Air Force personnel will not be used as ushers, guards, parking lot attendants or messengers in support of public events off-base. Individuals may act as escorts in beauty pageants or other local communitywide civic sponsored ceremonies only if the following conditions prevail:

(1) The approving commander believes participation is appropriate and in good taste.

(2) The individuals volunteer for the assignment.

(3) There is no interference with military duties or operations.

(4) Participation is at no additional cost to the Government.

(5) The event meets the basic DOD criteria.

(e) *Use of exhibits.* (1) Except for programed tours by the Orientation Group, USAF, display of exhibits at fairs, expositions, carnivals, parades or other appropriate events in the public domain, will normally be at no additional cost to the Government.

(2) Local inventory equipment used in a local celebration will normally be limited to 3 days. Formal exhibits by the Orientation Groups in fairs, expositions, and similar events may remain for the duration of the event.

(3) Exhibits may be displayed in any appropriate location or event, including commercially owned spaces such as shopping centers and malls, provided that:

(i) It is clearly established that such areas are frequented by the general public;

(ii) The exhibit is not for the purpose of drawing the public to that location;

(iii) The event is sponsored by civic groups; and

(iv) Participation is in the best interest of the Department of Defense and/or the Air Force.

(4) Indemnity insurance is not required for Armed Forces exhibits.

(f) *Use of color guards.* (1) A Joint Armed Forces Color Detail will be employed to the maximum extent possible for participation in DOD authorized events. It will be composed of: Two Army bearers with National and Army colors; one each Marine Corps, Navy, Air Force, and Coast Guard bearer with individual service colors; and one each Army and Marine rifleman as escorts.

(2) If a Joint Armed Forces Color Guard Detail cannot be provided, the national colors will be carried by the senior member of the senior military service present.

(3) Air Force personnel may carry flags of foreign nations in official civil ceremonies when an official of the nation concerned is present in his offi-

cial capacity and is one for whom honors would normally be rendered. In all other public events, Air Force personnel in uniform and in an official capacity are not authorized to carry flags of foreign nations, veterans groups or other nonmilitary organizations.

§ 824.9 Loan of equipment and base facilities.

(a) The loan of Air Force equipment and use of Air Force bases for civilian domain public affairs purposes is appropriate when the following criteria are met:

(1) The public affairs purpose involved is of direct interest and concern to the Air Force; is a program actively participated in by the unit; and is wholly within the scope of its public affairs responsibilities.

(2) Equipment is locally available and its loan or use is prudent and does not interfere with the unit mission.

(3) The public affairs objective to be met transcends any direct or implied competition with commercial interests.

(4) The use of the facilities is not for the purpose of raising funds.

(5) There is no significant potential danger to private property or citizens that could result in a claim against the Government.

NOTE: Much equipment which formerly was available only from the military resources is now available through commercial outlets. In considering requests for loan of military material, commanders must give increasing attention to the commercial potentials available before providing the support requested. This is particularly applicable to such items as public address systems, communications equipment, office space, food-handling, lighting equipment, construction equipment, field equipment, and transportation.

(b) If a public information program of a nongovernmental organization will benefit, the following criteria also apply:

(1) The program must be sponsored by a responsible organization, and the participating sponsor, individuals or groups, will be clearly identified in advance. The public information program involved must be known to be politically nonpartisan, and there should be a reasonable assumption of judgment by the unit commander that no aspect will be contrary to U.S. national policy.

(2) Nongovernmental public information programs will not be sponsored or cosponsored by an Air Force command or unit.

§ 824.10 Requests for participation.

To aid civilian sponsors desiring military participation and to guide Air Force officials receiving such requests, utilization of DOD format, "Request for Armed Forces Participation in Public Events," is recommended. This format is attachment 3 to AFM 190-4 and is authorized for local reproduction. The request format is designed to provide the approving authority with the information needed to determine the scope and type of Air Force participation is not locally available or if it is an event requiring approval of higher authority.

§ 824.11 General instructions.

(a) Air Force Academy student sports and athletic programs are exempt from this part and will be guided by policies established by the Superintendent of the Academy.

(b) A minimum of 60 days lead time at Hq USAF is desired for requests received from sponsors for participation in public events requiring Hq USAF or DOD approval.

(c) Requests are frequently received directly in Hq USAF from civilian sponsors. When this happens, the major command with the base closest to the requesting community will appoint a project officer from that base to coordinate all Air Force participation. Initial contact with the sponsor will be made by the project officer within 7 days of receipt of correspondence. The project officer should establish close liaison by assuring the sponsor that the Air Force has received his request and advising him that assistance will be provided if operationally possible.

(d) Requests for exceptions to policies herein will be considered only for highly unusual circumstances. Such requests should be submitted with full justification through command channels to the Secretary of the Air Force (SAFOIC), Washington, D.C. 20330.

(e) Directives of the National Guard Bureau take precedence for Air National Guard units except that the policy herein on use of aircraft will not be waived without authority of Hq USAF (AFXOP).

PART 825—AIR FORCE NEWSPAPERS, BASE GUIDES, AND DIRECTORIES

Sec.

825.1 Purpose.
825.2 Air Force newspaper.
825.3 Authorization to establish newspapers.
825.4 Who is responsible for Air Force newspapers.
825.5 General policies for Air Force newspapers.
825.6 Editorial policies.
825.7 Political campaign news and advertising.
825.8 Official Air Force newspapers.
825.9 Unofficial newspapers.
825.10 Unofficial base guides.
825.11 Unofficial yearbooks.
825.12 Appropriated fund newspapers.
825.13 Commercial advertising.
825.14 Printing and production standards for official papers.
825.15 Standards for use of appropriated funds.
825.16 Editorial manning standards.
825.17 Mailing newspapers.
825.18 Distribution of Air Force newspapers.
825.19 Annual Air Force newspaper contest and awards.
825.20 Air Force newspaper report.
825.21 Newspaper files.
825.22 Air Force News Service (AFNS).
825.23 Office of Information for the Armed Forces (IAF), Department of Defense.
825.24 Sample format—unofficial directory and base guide.

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§ 825.1 Purpose.

This part prescribes policy and procedures for establishing and publishing Air Force newspapers. It defines and provides guidelines on the relationship of the Air Force to commercial enterprise publications, and describes services provided by the Air Force News Service (AFNS) and the Office of Information for the Armed Forces (IAF).

§ 825.2 Air Force newspaper.

(a) *Definition.* An Air Force newspaper is a publication produced at any level of command by personnel assigned to Offices of Information, or through the cooperation of such an office. Its purpose is to provide Air Force news and information not immediately available from other sources to military and civilian members of the Air Force and their families at specific locations.

(b) *Types of newspapers.* There are two types of Air Force newspapers—official and unofficial. (See §§ 825.8 and 825.9.) Air Force civilian employee newspapers and those published by or for Air National Guard and Air Force Reserve units are considered Air Force newspapers, but publication produced by or for members of the Civil Air Patrol, the AFROTC, and sundry fund activities or private associations such as wives' clubs are not. Opinions expressed in Air Force newspapers do not necessarily reflect the official views of the United States Air Force. This will be stated in their mastheads.

(c) *Official newspapers.* These are financed by appropriated or nonappropriated funds. Official newspapers will not carry commercial advertising.

(1) Appropriated fund newspapers are subject to printing and duplicating regulations (AFR 6-1) and certain other limitations outlined in this part. They may be published with appropriated funds when approved by HQ USAF, and when funds are available and programmed by the major command headquarters concerned. (See § 825.10.)

(2) Nonappropriated fund newspapers are subject only to the limitations prescribed in this part and are not subject to printing and duplicating regulations.

(d) *Unofficial newspapers.* These are commercial enterprise newspapers published under written agreement by civilian concerns exclusively in the interest of Air Force personnel of a particular base or organization, at no cost to the U.S. Government. A commercial enterprise newspaper is similar to an official newspaper except that it is published at no cost to the Government.

(e) *Description of Air force newspapers*—(1) An Air Force newspaper usually resembles a civilian newspaper of either tabloid or standard size, normally about 11½ inches by 17 inches for a tabloid, and 16½ inches by 22 inches for a standard-size newspaper. Smaller units often publish stencil-reproduced newspapers on standard or legal-size paper. The front page, exclusive of the nameplate, may include both written and illustrative copy. News sheets and news bulletins, which may be used when newspapers are not readily available, are considered Air Force newspapers.

(2) The provisions of this part apply to news magazines when they serve as Air Force newspapers and so state in their masthead. Although there are no restrictions on the use of magazine formats, the Air Force recommends base newspapers follow the format described above for reasons of economy.

(f) *Comic and feature supplements, base guides, and yearbooks.* (1) A commercial enterprise comic or feature supplement consists of comic strips, cartoons, and features intended for a military audience. It may be distributed as an insert in official or unofficial newspaper provided requirements of this part are met.

(2) A commercial enterprise base guide or directory, usually published annually, is a guide or directory to an Air Force installation and adjacent community and geographical area. It is published without cost to the U.S. Government. (Guidelines for support authorized for base guides, directories, or orientation pamphlets produced by nonappropriated funds are in AFRs 6-1 and 34-67).

(3) Yearbooks are memento-type publications which, through the use of photographs and narrative, describe the makeup of a particular organization. They are commercial enterprise publications which are supported from advertising revenue and purchase of the book by individual members of organizations concerned. Distribution through official channels is not authorized, except as required for review or approval.

§ 825.3 Authorization to establish newspapers.

(a) *Funding the newspaper.* Air Force organizations and installations are authorized and encouraged to establish and maintain newspapers as stated in this part. Appropriated or nonappropriated funds may be used to publish a newspaper when this need cannot be met by an unofficial commercial enterprise newspaper published at no cost to the U.S. Government. Appropriated fund expenditures are authorized to support the Air Force Internal Information program.

(b) *Allocation of funds.* Appropriated and nonappropriated funds will not be mixed to pay the costs of publishing any one issue of a newspaper. However, appropriated and nonappropriated funds may be combined to cover the overall annual costs of publishing a newspaper, as long as they are used to separately fund specific issues of the newspaper. For example, the first 40 issues of a newspaper could be supported by appropriated funds and the remaining 12 from nonappropriated funds, or in any other similar combination.

(c) *Commercial enterprise newspaper costs.* Appropriated funds may not be used to pay any part of the costs of publishing a commercial enterprise newspaper. Costs involved in the preparation and delivery of copy to a commercial enterprise newspaper are those incurred in the normal functions of an Information office, and are not costs connected with the publishing of a newspaper.

(d) *Use of Air Force personnel.* Military and civilian personnel paid from appropriated funds may serve in any editorial capacity for official Air Force newspapers supported by appropriated or nonappropriated funds.

(e) *Use of inserts.* An official paper will not be distributed as an insert in a commercial enterprise newspaper; nor will a commercial enterprise newspaper be distributed as an insert in an official paper. However, a commercial enterprise comic or feature supplement with commercial advertising may be distributed as an insert in an official newspaper provided:

(1) Fair and equal opportunity is provided for responsible persons or organizations to compete for the privilege as provided in § 825.9(c).

(2) The front page of the supplement carries a statement as required in § 825.9(k)(4), and each succeeding page carries a statement in similar type, to the effect that the appearance of commercial advertisements in the supplement does not constitute Department of the Air Force endorsement of the products or services advertised.

(f) *Purchasing Air Force newspapers.* Nonappropriated funds may be used to buy copies of commercial enterprise base newspapers for distribution to Air Force personnel when the commander feels there is insufficient revenue from other sources to make this type of publication feasible, and approval has been granted by SAF/OI. Approval is granted only when continual publication of the newspaper is considered essential to the morale of the unit concerned and the publisher has conclusively demonstrated his lack of revenue.

§ 825.4 Who is responsible for Air Force newspapers.

(a) The Director of Information, Office of the Secretary of the Air Force (OSAF), will exercise general supervision over Air Force newspapers and other publications covered in this part in keeping with policies established by the Secretary of the Air Force.

(b) Commanders of major commands are responsible for administrative support and financing of official newspapers, and for approving and monitoring Air Force newspapers, base guides, directories, and yearbooks published in their commands. They will establish procedures for reviewing issues of base newspapers to insure compliance with Air Force standards and directives, and review and maintain a current file of agreements between comanders and publishers of commercial enterprise base newspapers and base guides to insure compliance with Air Force directives.

(c) Local commanders will supervise Air Force newspapers published in their commands and monitor commercial enterprise publications with which they have agreements to insure compliance with Air Force and major command policies and directives.

§ 825.5 General policies for Air Force newspapers.

(a) The intent of this part is to insure that the military and civilian personnel on each Air Force base or installation be served by an Air Force newspaper. The content of the newspaper will provide for equitable consideration of both host and tenant units, and will serve the mutual interest of all military and civilian personnel and their dependents at the installation. Normally, it is not practicable for an installation of fewer than 500 assigned military and civilian personnel to publish a newspaper. Meeting the newspaper needs of such small organizations should be the responsibility of their parent organizations. However, this part does not prohibit the commander of a small organization from publishing a newspaper or unit news sheet from within the unit resources.

(b) The functions of an Air Force newspaper are to: (1) Increase knowledge and understanding of the Air Force by providing detailed coverage of information of interest and value to Air Force personnel, and (2) Afford the commander an Internal Information channel through which he may provide information on subjects of particular benefit to the Air Force, the command, intermediate echelons, and his unit. As a house organ, the newspaper constitutes a tool of management which provides an employee communication channel to aid the commander in carrying out the aims of the Air Force Internal Information Program. (See AFR 190-18.)

(c) Follow this priority sequence for meeting the costs of publishing a newspaper:

(1) Commanders should first try to satisfy newspaper requirements through use of commercial enterprise publications.

(2) Where the commercial enterprise method is not feasible, commanders are authorized appropriated fund expenditures to publish Air Force newspapers.

(3) When the above methods of publishing a newspaper are not adequate, nonappropriated funds may be requested locally.

(d) Normally, Air Force newspapers will be issued once a week. However, publication once every two weeks or monthly is authorized if considered by the commander to be in the best interest of the organization.

(e) Air Force newspapers are classified as follows:

(1) Class I—Multilith/mimeograph newspapers.

(2) Class II—Official letterpress/offset newspapers.

(3) Class III—Unofficial letterpress/offset newspapers.

(4) Further subdivisions are provided in classes II and III for purposes of the annual Air Force newspaper contest (see § 825.19).

(f) Newspaper publication activities are assigned to the organization's Office of Information, except for those published by dependents' organizations, open messes, and similar groups. The latter should be provided with advice, assistance, and news releases.

(g) The principles of operation of official newspapers are comparable to those governing civilian commercial newspapers published in the United States. Commanders occupy a status comparable to that of civilian publishers and are responsible for the publication of newspapers within their commands.

§ 825.6 Editorial policies.

Every effort must be made to provide information which is compatible with the concept of the Air Force newspaper as the house organ of the commander and to further Air Force information objectives. One of the most effective means of achieving this aim is through action-line columns in which the commander responds personally to questions and complaints about a variety of topics. The selection and writing of news and other articles are governed by the following general policies:

(a) Make news coverage as complete as practicable. The writing should be factual, objective, and as timely as possible. Articles should be based on reports provided by members of the staffs of individual Air Force newspapers, the Air Force News Service (AFNS), command news services, the American Forces Press Service (AFPS), official releases, and commercial press associations where authority to use them exists.

(b) Editorial and news policies of Air Force newspapers serve to increase knowledge and understanding of the Air Force. There must be no appeal to emotions detrimental to either the interests of the Nation or any Government agency.

(c) Newspapers must distinguish between facts and opinions which may be part of a news story. If opinion is expressed, the person or source must be identified.

(d) Editorial opinion must be identified as such. Editorials originated locally must reflect the policies of the commander and be directed to the interest and welfare of the Air Force.

(e) Newspapers are subject to the security regulations governing Air Force activities. News or information which would adversely affect the security of the nation, endanger the safety of personnel or undermine discipline will not be disclosed. This shall not be construed to permit the calculated withholding of unfavorable news.

(f) Editors must conform to the principles of good taste, the laws governing libel and copyright and postal regulations (see § 825.17), and policies of the Air Force. Care should be taken when using material on ideological subjects, world affairs, U.S. foreign policy, and nuclear weapons and missiles to insure the material is consistent with national policy.

(g) Orders and directives are treated according to their straight news value or departmentalized as official documents published for the information of all concerned.

(h) Topical news about base exchange activities, events, and policies is encouraged. In no case will comparisons be made of prices, goods, and services available to service personnel through base exchanges in contrast to those available on the civilian economy. The same policy applies to commissaries.

(i) Labor union news which might provoke controversy; that is, editorial endorsement or criticism of union actions, recruiting, or discouraging union membership should be avoided.

(j) Book reviews may be used if written objectively so there is no implication of endorsement by the Department of the Air Force or any element of the Department of Defense.

(k) Air Force newspapers may provide space for free and noncommercial listing of personal property or services offered by, and for the convenience of, local base or unit personnel without regard to race, creed, color or national origin.

(l) All Air Force newspapers carry a front page dateline which includes the volume and issue number, geographical location of the installation (if not prohibited by security limitations) and issue date.

(m) Air Force photographs carry the credit line "U.S. Air Force Photo." Credit may be given a photographer by name, grade, and editorial position in an official newspaper. The name and grade of the photographer may be used in a commercial enterprise newspaper if there is no inference he is a member of the staff.

(n) Use AFP 190-42, Armed Forces Newspaper Guide and AFP 190-38, Armed Forces News Style Guide, as the official guides for publishing base newspapers. Internal information policy is in ARM 190-9, Information Policies and Procedures.

§ 825.7 Political campaign news and advertising.

Air Force newspapers published in the 50 states will not contain political campaign news, since this news generally is available in local civilian newspapers. However, it is appropriate for the Air Force to make sufficient current campaign information available to personnel stationed outside the United States to enable them to understand the political scene and vote intelligently. Political campaign news coverage will be governed by the following policies.

(a) Air Force newspapers, news sheets, or news bulletins published in oversea commands where civilian-published, English-language newspapers generally are not available may include factual political campaign news obtained from commercial news services.

(b) Presentation of political campaign news in Air Force newspapers should be impartial and nonpartisan. Great care will be exercised in maintaining a well-balanced handling of materials by, about, or originating from opposing parties or candidates.

(c) Air Force newspapers will not contain editorials dealing with candidates or issues and will not include editorial comments, criticism, analyses, or interpretations of political campaign news.

(d) Air Force newspapers will carry information during election years about voting laws of the various states and territories and editorials supporting the Federal Voting Assistance Program. They may also carry nonpartisan appeals from national leaders for military personnel and their dependents to study candidates and issues and then exercise their right to vote.

(e) No Air Force newspaper will conduct a political opinion poll, survey, or straw vote. Commanders entering into an agreement with a civilian enterprise publisher will insure that such a restriction is part of the written agreement.

(f) Political advertisements will not be carried in Air Force newspapers.

§ 825.8 Official Air Force newspapers.

(a) Official newspapers will contain no commercial advertisements inserted by, or on behalf of any private individual, firm, or corporation; neither will they contain any material which implies that any military department or the Department of Defense endorses or favors a specific commercial product, commodity or service. However, this does not prohibit use of news and announcements concerning entertainment units affiliated with commercial enterprises which have been approved for the Armed Forces Professional Entertainment Program overseas. Such news items should not be set apart or be in a form similar to paid advertisements.

(b) Official newspapers do not subscribe, even without cost, to commer-

cial or feature wire services whose primary purpose is the advertisement or promotion of commercial products, commodities, or services.

(c) Only one official base newspaper will be published to serve the total personnel of an installation.

(d) The statement of publication masthead of official Air Force newspapers will be easily identifiable and will include the names of the officer in charge, editor, members of the editorial staff, and the following statement:

The (name of the newspaper) is an official Class (I or II as defined in this regulation) Air Force newspaper, published (frequency of publication), on (day of week or, in the case of a monthly or semimonthly, the actual date) for the personnel of (name of Air Force installation), (name of MAJCOM) at (name of geographical location, if not prohibited by security limitations, and post office address). Opinions expressed herein do not necessarily represent those of the USAF.

§ 825.9 Unofficial newspapers.

(a) *General information.* Commanders are authorized to enter into agreements for commercial enterprise publications for dissemination of Air Force news and information to units under their command. The content of such publications should represent the aim and purpose of the Air Force Internal Information Program. Invited proposals for publishing commercial enterprise publications may specify those categories of news, comics, features, and factual information to be included.

(b) *Selecting a publisher.* In selecting a commercial enterprise publication for distribution within his control, each commander must afford a fair and equal opportunity to any responsible bidder who may wish to submit a proposal to publish such a publication.

(1) The best obtainable offer and price per copy, if any, must be considered if a charge from nonappropriated funds is expected.

(2) The commander considers the competence, reliability, and responsibility of the prospective publisher.

(3) In cases where a new proposal provides essentially the same services as that provided by the current publisher, consideration should be given to the quality of service rendered by the current publisher.

(4) The contract period is for a period not in excess of two years.

(c) *Distribution.* (1) Commercial enterprise publications printed under such agreements may be distributed through official channels without cost to the publisher, provided this does not require additional expenditures of appropriated funds. With the concurrence of the commander concerned, the publisher of such a commercial enterprise publication may arrange for direct distribution to intended Air Force readers.

(2) A commander may afford the opportunity to reputable publishers to sell or give away publications at the activity he commands, except as provided by AFR 35-15. Such publications may not be distributed through official channels nor be distributed directly to intended readers without his concurrence.

(d) *Agreement between Commander and Publisher.* (1) Installations having selected commercial enterprise publications for distribution to Air Force personnel must maintain current written agreements with the civilian publisher. (AFM 190-9, fig. 2-1.) Such agreements are drawn up by the local commander and the civilian publisher. Copies of these agreements are forwarded for file to MAJCOMs.

(2) A military installation is limited to one commercial enterprise publication in each category, except that a commercial enterprise newspaper may carry as an insert or separate inserts, comic and feature supplements.

(3) A separate agreement is not required for a commercial enterprise comic or feature supplement intended for distribution with a commercial enterprise newspaper if the contract with the newspaper publisher stipulates that any such supplements have the prior approval of the commander.

(e) *Problems with the publisher.* The information officer should meet on a frequent and regular basis with the publisher to discuss and resolve problems which arise in the publishing agreement. If necessary, complaints of the commander or information officer concerning the publication or distribution of an unofficial commercial enter-

prise publication are sent in writing to the publisher with an information copy forwarded through channels to Secretary of the Air Force (SAE/OIIB), Wash. DC 20330. Also MAJCOM and SAF/OIIB are informed in advance whenever a commercial enterprise publication agreement is terminated before the full term of the agreement. States reasons for action in full.

(f) *Commander's responsibilities.* (1) The commander responsible for the contract with a civilian enterprise publisher does not exercise control over the overall operation of the newspaper. However, the commander concerned may suggest the positioning of editorial matter and military photographs within the newspaper.

(2) In addition, he has the authority and responsibility to prohibit distribution within his command of any issue of the newspaper he considers unlawful or prejudicial to good order and discipline or not in the best interest of his command.

(3) He also may prohibit distribution of a commercial enterprise publication carrying an advertisement which he determines would interfere with the successful performance of his mission. In the context of an advertisement, this would take into account the local climate, the content of the proposed advertisement, and the identity and reputation of the requesting organization, among other factors. The commander concerned must make the decision for approving distribution on his installation of a newspaper containing an advertisement which promotes a situation involving potential riots or other civil disturbances, or if the distribution of such an advertisement would present a clear danger to loyalty, discipline, or morale of his personnel.

(4) Commanders should acquaint publishers with these criteria to avoid the acceptance of advertising which would be detrimental to the accomplishment of the military mission or in any way imply condonement of or indorsement of such activity. If such a ban is invoked the commander gives written notice to the publisher informing him of such action, and stating what he must do to have the prohibition lifted. Inform SAF/OIIB as directed in (e) above.

(g) *Nameplate.* (1) A commercial enterprise publication must not state that it is an official publication of the Air Force, nor use the name, seal, insignia, or emblem of the Air Force, command, base, or unit in any manner that might imply it is an official Air Force publication. Effective with the date of this regulation, the name of the base or activity may not be used within the nameplate of any such new commercial publications. The name of the base may appear in the nameplate of commercial enterprise publications already in existence at the time of publication of this regulation if the words "Air Force Base" or "AFB" are not included.

(2) The nameplate of commercial enterprise newspapers should be easily identifiable and should include the name of the newspaper, the volume and issue number, the geographical location of the installation (if not prohibited by security limitations), and the day of the week published. The following statement in 8-point bold, if available, but in any case no smaller than the main body type, is printed on the front page or cover of each commercial enterprise newspaper, supplement or insert:

The (name) is an unofficial newspaper published (frequency of publication) in the interest of personnel at (name of Air Force installation) of (major command). It is published by (name of publisher), a private firm (or individual), in no way connected with the Department of the Air Force. Opinions expressed by publishers and writers herein are their own and are not to be considered an official expression by the Department of the Air Force. The appearance of advertisements, including supplements and inserts, in this publication does not constitute an endorsement by the Department of the Air Force of products or services advertised.

(h) *Editorial contributions by Air Force personnel.* Air Force military personnel on extended active duty and Air Force civilian personnel may not serve on the editorial staff of a commercial enterprise publication or authorize their names to be carried in its masthead. Such personnel may not be assigned to duty at the premises of the publication or perform any function

that is under the direction or supervision of the commercial enterprise publisher or any of his officials or employees. This policy does not prohibit news releases through normal channels, nor does it prohibit contributions by military and civilian personnel of articles or military photographs, with bylines, or credit lines, to commercial enterprise publications without reimbursement. No editorial title may be attached to the byline, or credit line, and the material cannot imply that the author has an official position on the publication.

(i) *Availability of Air Force news.* All news and information made available by the Air Force to a commercial enterprise publication will be made equally available to any other publisher who requests it.

§ 825.10 Unofficial base guides.

(a) *Format.* The front cover of a commercial enterprise base guide or directory will carry the name of the civilian publisher prominently just above the disclaimer. The word "guide" or "directory," which appears on the front page or cover is preceded by "unofficial" in type at least as large as that in which the word "guide" or "directory" is printed. The format for the guide or directory is designed so that the publication cannot be mistaken for an official guide or directory.

(1) Section 825.24 carries a suggested front cover design showing how this unofficial approach can be achieved. Another design may be used, but it must be equally effective in making plain the unofficial nature of the publication.

(b) *Agreements between Commander and publisher.* In addition to the conditions previously set forth in this part, the agreement between the commander and the publisher of the guide or directory must include the following:

(1) Do not include organizational charts or listings of the command in the publication.

(2) Do not include base telephone numbers of personnel, or organizational elements, or the home addresses and telephone numbers of personnel. At the discretion of the commander, emergency and service numbers, such as hospital, security police, fire, and an alphabetical listing of personnel may be included.

(3) On one of the inside pages the publication date, the publisher's name, permanent address, and telephone number is shown in the masthead.

(4) Neither the name of the installation, organization, nor a military post office address, may be included in the publisher's letterhead or mailing address.

(5) Reference to base exchanges and commissaries in guides or directories may contain only the location, hours of operation, and listing of services available.

§ 825.11 Unofficial yearbooks.

Unit commanders may authorize publication of base or organizational unofficial yearbooks provided they do not include information determined to be of possible value to a potential enemy. This information includes, but is not limited to:

(a) Detailed biographical data of other than key personnel.

(b) Information on special combat equipment.

(c) Detailed manning and specialities of key combat and support units.

(d) Other detailed air order of battle data.

§ 825.12 Appropriated fund newspapers.

(a) *Requesting appropriated fund newspapers.* To establish an appropriated fund newspaper or to convert a civilian enterprise or nonappropriated fund newspaper to one using appropriated funds, the MAJCOM concerned must first obtain approval of the Secretary of the Air Force (SAF/OIIB), Wash DC 20330. Requests for appropriated fund papers must include:

(1) Conclusive justification, showing clearly that commercial enterprise fund support is not feasible.

(2) Statement that funds are available or have been programmed by the MAJCOM.

(b) *Policies.* (1) An activity must have more than 500 total military and civilian employees to be eligible for an appropriated fund newspaper.

(2) Ordinarily, a ratio of one copy to each three members of the total com-

plement is the maximum number of newspapers which are normally approved. If a greater number of copies is necessary to carry out the newspaper's function, specific and conclusive justification must be submitted with the annual requests for appropriated funds.

(3) Appropriated funds may be used for special expanded issues for such occasions as Armed Forces Day, Easter, Thanksgiving, and Christmas. (see § 825.15(b)) Annual printing budget requests cover the costs of these special issues and are made concurrently with other budget requests.

(4) Air Force appropriated fund newspapers are items of printing, and appropriated printing funds are cited for the cost of contracts for printing services.

(5) Commanders are authorized to contract for newspapers on an annual fiscal year basis.

(6) The commercial enterprise method of publishing a base newspaper should be explored prior to renewing printing contracts for appropriated fund papers.

§ 825.13 Commercial advertising.

(a) To be acceptable for on-base distribution through official channels, no advertising in commercial enterprise publications shall be worded or phrased to give the reader the impression that the Air Force in any way endorses, guarantees, or sponsors any product or service. Advertisements must not imply discrimination against any person because of race, religion, national origin, or sex.

(b) The publisher of a civilian enterprise publication is required, as part of the written agreement, to display the following statement in the publication:

> Everything advertised in this publication must be made available for purchase, use or patronage without regard to the race, creed, color, national origin, or sex of the purchaser, user, or patron. A confirmed violation or rejection of this policy of equal opportunities by an advertiser will result in the refusal to print advertising from that source.

(c) Advertisements which appear to be editorials or news stories may be confused as such by readers and should be clearly labeled, top and bottom, as advertisements in a type size equal to text type or larger.

(d) The publisher will request advertisers to observe the highest business ethics and applicable laws in describing goods, services and commodities, and the terms of sale, including guarantees and warranties. If credit terms are offered in such advertisements, a clear statement of the total cash price as well as the total cost of credit, including all charges, should be clearly shown in the company's advertisements. If time payments are shown, the number of payments, the amount of each, and the time period should also be shown in order that the reader can easily compute the dollar cost of the loan.

(e) Active-duty Air Force military and civilian personnel are prohibited from soliciting or endorsing advertisements in commercial enterprise publications.

(f) Copy or art provided by the Department of Defense or the Air Force may not be used in commercial advertisements to promote the sale of goods or services offered by the advertiser, except as provided by AFR 190-16.

(g) The unofficial nature of the commercial enterprise publication must be made clear by the publisher to every person or firm solicited for advertising. Any brochure or letter from the publisher to a prospective advertiser must clarify this.

(h) Advertisements must conform to the principles of good taste, and the amount of space in each issue used for advertisements must not detract from the primary purpose of the publication which is to provide news and information of particular interest to Air Force military and civilian personnel.

(i) The monthly ratio of advertising copy to news copy in commercial enterprise newspapers, including inserts and supplements, should average:

(1) 4-8-page newspaper, 50 percent advertisements.

(2) 12-16-page newspaper, 55 percent advertisements.

(3) 20-24-page newspaper, 60 percent advertisements.

(4) More than 24-page newspaper, 65 percent advertisements.

§ 825.14 Printing and production standards for official papers.

Official Air Force newspapers must be printed commercially, except in locations where commercial sources are not available. At these locations, Air Force printing plants or duplicating facilities may be used if existing production facilities are adequate to provide for newspaper production in addition to all official business. The requirement to print a newspaper is not justification for purchasing additional printing equipment.

(a) The following weekly maximum allowances for paper are established for official Air Force newspapers:

Base population	Total (in square inches) [1]
Less than 1,000	374
1,000 to 5,000	748
5,000 to 10,000	1,496
10,000 and up	2,992

[1] Paper allowance per copy per week.

(1) Base population includes both military and civilian personnel. The term "civilian personnel" includes, classified civilian employees, DAF employees, indigenous employees, and employees paid from nonappropriated funds.

(2) Newspapers issued twice monthly may increase their paper allowance in proportion to the weekly allowance. For example, a newspaper issued twice a month for a base with a population of less than 1,000 may have a paper allowance of 748 square inches. To meet local printing and paper problems, newspapers may use various page sizes as long as they remain within the maximum limit of paper allowance authorized.

(b) Specifications prepared for printing of official Air Force newspapers must be written to obtain maximum economy consistent with the needs of the Air Force. Use the following Congressional Joint Committee on Printing standards when specifying paper stocks for official Air Force newspapers.

(1) Papers produced by letterpress are printed on standard newsprint, natural shade, not to exceed 64-pound stock (weight basis 24x36"—1,000) as specified in JCP Specification A10.

(2) Papers produced by the offset process are printed on offset book, not to exceed 100-pound stock (weight basis 25x38"—1,000), as specified in JCP Specification A60.

(c) The use of illustrations is encouraged, but their use are not to exceed 50 percent of the total weekly space allowance. Illustrations or material supplied without cost to the newspaper in matrix or photographic form are not chargeable against the illustration space limitation.

§ 825.15 Standards for use of appropriated funds.

In addition to those standards prescribed in § 825.14, all Air Force newspapers printed from appropriated funds are subject to the following:

(a) Air Force newspapers printed from appropriated funds are limited to one color (black), except that a maximum of four issues per year may be published in one additional color for Easter, Thanksgiving, Christmas, Armed Forces Day, or similar occasions. Such special issues may be printed with one additional color as an overprint, a separately printed cover, or on a double-page center section. Black is considered a color when determining the use of two colors in Air Force newspapers.

(b) Armed Forces Day issues may be printed in twice the normal number of pages and three times the normal number of copies. Any combination of these limits s permissible. For example, an issue may have the normal number of pages and be published in six times the number of copies.

§ 825.16 Editorial manning standards.

(See AFM 26-1 and AFM 26-3, Volume II.) Because the base newspaper is recognized primarily as a tool of management in the field of employee communications, the commander and the information office should use it as the basic medium of the Internal Information Program. Close and continuous attention should be given to this medium, and care should be taken to assign highly qualified persons to prepare its editorial matter. Because

publishing schedules are fixed and copy deadlines must be met, those editorial personnel assigned the responsibility for meeting publishing deadlines are normally excused from extra duties that would interfere with base newspaper production.

§ 825.17 Mailing newspapers.

(a) Air Force newspapers containing no commercial advertising may be mailed under the "Postage and Fees Paid" indicia (see AFM 10-5). Newspapers not meeting these criteria are authorized for mailing to addresses in § 825.18, and to U.S. Government addressees who need to receive copies for administrative purposes. Newspapers sent through the mails must be folded securely and may be forwarded either by franked label or enclosed in an envelope or wrapper.

(b) Air Force newspapers transmitted through the mails must conform to the provisions of Section 1302 of Title 18, The United States Code. Specifically, avoid mention of lotteries or games of chance of any kind. The penalties for mailing newspapers containing such information are fines up to $1,000 or two years' imprisonment.

(c) When mailing newspapers, consider both needed speed of delivery and economy in determining the type of service used. For example, airmail should not be used when military official mail (MOM), first-class service, or third-class service would provide delivery to addressees within acceptable time limits. Personnel making the determination should:

(1) Be aware of transit times and costs of moving various classes of mail (see AFM 10-5, attachment 1).

(2) Carefully weigh the timely news value against cost of mailing.

(3) Monitor the mailing to insure the appropriate type of mail service is being used and that newspapers are properly packed and addressed (AFM 10-4 and AFM 10-5).

(4) Apply for bulk third-class rate if each mailing consists of at least 50 pounds or 200 identical newspapers.

(5) Use first-class mail to send single addressed newspapers if the total weight of each item is one ounce or less.

(6) Use third-class mail to send single addressed newspapers if the total weight of each item exceeds one ounce.

(7) Identify first or third-class matter by placing the words FIRST-CLASS or THIRD-CLASS on each piece, preferably in a position above the address and below the Postage and Fees Paid indicia. Additionally, newspapers addressed to oversea military units must be endorsed military official mail (MOM).

§ 825.18 Distribution of Air Force newspapers.

(a) Issues of each Air Force newspaper are distributed upon publication date as follows:

(1) One copy to Secretary of the Air Force (SAF/OIIB), Wash DC 20330.

(2) If subscribing to American Forces Press Service, two copies to American Forces Press Service, 1117 N. 19th Street, Arlington, VA 22209.

(3) Copies required by MAJCOM offices of information for review.

(b) Newspaper distribution lists must exclude persons or organizations not affiliated with the base of origin and those without official interest in the publication. Exception may be made when a written request is received, and when it is determined to be in the best interest of the Air Force to include the requester on the distribution list. Keep copies of such requests on file. Commercial newspaper agreements should, whenever possible, include a provision requiring the publisher to mail newspapers to nongovernment addressees.

(c) Revise newspaper distribution lists at least once a year to insure they are up to date and accurate.

(d) All requests for Air Force newspapers by individuals or organizations unrecognized by the base information officer or the commander as having a legitimate requirement are forwarded for action to Secretary of the Air Force (SAF/OIIB), Wash DC 20330.

(e) Answer requests for Air Force newspapers by foreign diplomatic missions or attaches substantially as follows:

Your interest in (name of newspaper or subject) is appreciated. However, the United

States Air Force has established a central office to handle requests of this nature.

Accordingly, your request has been forwarded for action to HQ USAF/CVI Wash DC 20330. Forward a copy of the request to CVI with information copies to the information officer of the MAJCOM concerned.

§ 825.19 Annual Air Force newspaper contest and awards.

(a) *Period covered.* The contest is an annual worldwide competition among Air Force newspapers published under the provisions of this regulation. Contest periods are from January 1 through December 31. Awards recognize newspaper effectiveness.

(b) *Classes.* (Note: Class II and III, because of the comparatively large number of newspapers published within them, have been subdivided into categories to provide the most equitable representation and recognition possible.)

(1) Class I—Multilith/mimeograph newspapers.

(2) Class II—Official letterpress/offset newspapers.

Category A—4 to 8 pages (annual average).

Category B—10 pages or more (annual average).

(3) Class III—Unofficial offset/letterpress newspapers.

Category A—4 to 8 pages (annual average).

Category B—10 to 16 pages (annual average).

Category C—20 or more pages (annual average).

(4) Class IV—Photographic feature (published in official or unofficial newspapers).

(5) Class V—Special edition newspaper (official or unofficial).

(c) *Awards.* (1) Awards consist of plaques for first-, second-, and third-place winners in each of the classes or categories above. The plaques for permanent retention by the winning newspapers bear the signatures of the Secretary of the Air Force, Chief of Staff, and Director of Information. Plaques are funded from appropriated funds.

(2) The Chief of Staff presents the plaques to editors or representatives of newspapers winning first place in each class or category as described in para 18b. This ceremony takes place in the Pentagon usually in March.

(3) Second- and third-place plaques are mailed to MAJCOMs for presentation.

(4) A single winner from each class in the annual Air Force Newspaper Contest is selected by the judges and submitted as the Air Force entry in Department of Defense newspaper contests.

(d) *Eligibility.* Air Force newspapers which meet the requirements and definitions stated in this regulation are eligible to compete.

(1) MAJCOMs submit all entries.

(2) Submissions are limited to one entry in each class or category.

(3) For Classes I, II, and III, forward one copy of each of three issues published within the contest period. SAF/OIIB announces the dates of the three issues to be judged prior to the close of the contest period. For Class IV, Photographic Feature, forward one entry from any issue published during the contest period. For Class V, forward any issue specifically designated as a Special Edition newspaper published during the contest period.

(4) In the cover letter accompanying entries, list each class or category, the name of the entry, and the base. Enter the word "negative" if no entry is submitted in a given class/category.

(5) Provide a fact sheet including the following information with each entry:

(i) MAJCOM, location, and unit.

(ii) Name of entry.

(iii) Press run, estimated readership.

(iv) Name, grade, and Social Security Account Number (SSAN) of editor or individual responsible for contest issues. (This permits recognition of work performed even though an editor may have transferred.) If the responsible editor has been transferred, name, grade, and SSAN of the present editor must also be included.

(6) Send entries to Secretary of the Air Force (SAF/OIIB), Wash DC 20330; to arrive no later than the first week of January.

(e) *Judges and Judging Criteria.* Professional journalists and industrial editors serve as judges. Judging is based on:

(1) Support of Air Force information objectives.

(2) Use as a management tool by the commander.

(3) Journalistic qualities.

§ 825.20 Air Force newspaper report.

Submit periodic reports on Air Force newspapers as stated in AFR 190–18.

§ 825.21 Newspaper files.

Newspapers are maintained in annual blocks and a new file established on the anniversary date of initial publication. Back issues of the newspaper should be permanently bound and retained for base reference purposes. Disposition is stated in AFM 12–50, table 190–1.

§ 825.22 Air Force News Service (AFNS).

AFNS is an activity of the Office of Information, OSAF. Though use of AFNS is not mandatory, information officers and editors are urged to give it maximum use. AFNS material is prepared and produced with careful attention to the support of Air Force objectives.

(a) *Services provided.* (1) Air Force news emanating from HQ USAF is mailed weekly direct to all Air Force newspapers. In addition, AFNS provides news stories on MAJCOM activities, feature stories and editorials, a photo service, and articles of interest to wives. Coverage includes information on national events having important Air Force aspects, Air Staff actions of general interest (including personnel matters, housing, regulations, and policies), and material explaining basic Air Force missions and doctrines. Coverage does not include general world or national news, but may include articles or editorials on world affairs of special significance to Air Force members. Periodically, AFNS contains Editor's Notebook, a special feature carrying advice, suggestions, and Air Force newspaper policy for editors. Attention is directed to subjects of top priority in the Air Force and means of developing stories at the local level. Special critiques are available upon request.

(2) News of greatest importance is electrically transmitted to MAJCOMs for retransmittal to base editors.

(b) *Who may receive AFNS material.* All newspapers published by or for Air Force personnel are eligible to receive material prepared by AFNS. AFNS is furnished to commercial enterprise newspapers only through the base information officer concerned. Forward requests for AFNS distribution through command information channels to Secretary of the Air Force (SAF/OIIB), Wash DC 20330.

(c) *Use of AFNS material.* (1) Normally, AFNS provides material of primary interest to Air Force newspapers. However, the information in AFNS material can and should have a wider use than distribution solely through newspapers. Information officers should examine each AFNS mailing for wider application and use through such media as Air Force radio and television stations, daily bulletins, Commander's Call programs, and bulletin boards.

(2) Material of interest to Air Force wives should be passed on by the information officer to the editor of the base wives' club publication, whether the material is used in the base newspaper or not.

(3) Editors are encouraged to rewrite AFNS material to adapt it more closely to the interest of the installation audience, through the use of localized leads and additional local information. Use of AFNS credit lines is encouraged.

(4) Commands may establish news services to provide information of specific interest to command personnel, but such services will not duplicate material provided by AFNS.

§ 825.23 Office of Information for the Armed Forces (IAF), Department of Defense.

(a) *Services provided.* Upon request, this office provides the following press materials and services to Air Force newspapers:

(1) *American Forces Press Service.* A clipsheet, published weekly, carrying text and art which may be included in Air Force newspapers. Illustrations appearing in the press service are provided upon request in matrix form for letterpress newspapers; in electronically cut stencils for mimeograph news-

papers; and in preprinted paper masters for multilith-duplicated newspapers. Photo-offset newspapers may use the illustrations as they appear in the press service.

(2) *Commanders Digest.* A publication containing Department of Defense policies, and seat-of-government news and information. Reproduction of contents is authorized.

(3) *Armed Forces Newspaper Guide.* A manual for personnel performing editorial duties on Air Force newspapers.

(4) *Armed Forces News Style Guide.* A guide designed to help Air Force newspaper staffs standardize their style by providing guidance on such matters as abbreviations, punctuation, and spelling.

(5) *Advice to editors.* Advice concerning the organization and operation of service newspapers and detailed critiques of individual Air Force newspapers are available upon request. (Forward requests for critiques through MAJCOMs).

(b) *Who may receive IAF material.* (1) All Air Force newspapers are eligible to receive material prepared by IAF. However, a commercial enterprise newspaper should be serviced with IAF material through the information officer of the installation it serves. Commercial enterprise newspapers may not use copyrighted material without approval.

(2) The following nonpublishing activities may be provided with IAF press material upon written justification of their need for the service. Requests should be addressed to Secretary of the Air Force (SAF/OIIB), Wash DC 20330.

(i) Headquarters having a policy supervisory interest in Air Force newspapers, including headquarters of MAJCOMs, numbered air forces, and air divisions.

(ii) Air Force radio and television networks and stations.

(iii) Isolated detachments at which Air Force newspapers are not readily obtainable and whose parent organizations do not publish a unit newspaper.

(3) Nonpublishing organizations not noted in paragraph (b)(2) of this section forward requests for IAF materials to MAJCOMs.

(c) *Use of IAF materials.* (1) Materials may be edited or revised by editors of Air Force newspapers as required by newspaper space limitations or as advisable for local appeal.

(2) Material must not be used in commercial advertising in any newspaper.

(d) *How to apply for IAF materials.* (1) Requests for IAF material must be forwarded through command channels to the MAJCOM information officer for approval. The command information officer forwards approved requests directly to the Office of Information for the Armed Forces, OASD (M&RA), Attn: American Forces Press Service (AFPS), Washington DC 20305.

(2) Include the following in each request:

(i) Name and mailing address of newspaper.

(ii) Method and frequency of publication.

(iii) Number of copies printed.

(iv) Whether newspaper carries commercial advertising.

(v) Whether mats or precut stencils are desired.

(3) An official Air Force newspaper receiving materials must forward one copy of each issue to the AFPS. Issues of commercial enterprise newspapers must be forwarded in one copy by the information officer having normal liaison with the publisher.

(4) Air Force newspaper editors and information officers are encouraged to provide AFPS with news releases and photographs relating to their activity.

(e) *Department of Defense awards.* The Assistant Secretary of Defense (Manpower and Reserve Affairs) presents annual Department of Defense Thomas Jefferson awards to newspapers of active military units or installations for professional excellence and outstanding achievements in the accomplishment of their mission. These awards for Air Force newspapers are based on nominations submitted by the Department of the Air Force.

90-112 O—82——13

§ 825.24 Sample format—unofficial directory and base guide.

The following statement must appear on the cover:

Published by (name of publisher), a private firm (or individual), in no way connected with the Department of (insert appropriate military department). Opinions expressed by the publishers and writers herein are their own and are not to be considered an official expression by the Department of (insert appropriate military department). The appearance of advertisements in this publication does not constitute an endorsement by the Department of (insert appropriate military department) of the products or services advertised.

NOTE: If a format similar to the one shown above is used for a civilian enterprise area guide, any neighboring city, town, or area may salute a military activity. In the title on the front cover, the name of the military activity shall be subordinate to that of the city, town or area. On the inside front cover or just after the title page, the guide may carry pictures of city, town or area officials, along with messages from them to base or post personnel and visitors. On subsequent pages the guide may carry pictures of military officials. These may be accompanied by biographical information but not by messages from these officials.

PART 825a—GIFTS TO THE DEPARTMENT OF THE AIR FORCE

Subpart A—General

Sec.

825a.1 Purpose.
825a.2 Explanation of terms.
825a.3 Air Force policy.
825a.4 Authority to accept or reject gifts.
825a.5 Determination of the nature of an offer of a gift.
825a.6 Expenses prior to acceptance.
825a.7 Custodial responsibility.
825a.8 Correspondence files.
825a.9 Copyrighted or patented items.
825a.10 Gifts from foreign governments.
825a.11 Gifts of real property.
825a.12 Advice to donors concerning tax benefits.
825a.13 Gifts not covered by this part.

Subpart B—Unconditional Gifts

825a.14 Acceptance of gifts.
825a.15 Rejection of gifts.
825a.16 Procedures for receiving and transmitting offers of gifts.
825a.17 Accounting for or disposition of unconditional gifts.

Subpart C—Conditional Gifts

825a.18 Statutory authority.
825a.19 Receipt and use or disposition of a conditional gift.
825a.20 Form of instruments offering gifts.
825a.21 Acceptance of gifts.
825a.22 [Reserved]
825a.23 Rejection of gifts.
825a.24 Procedures for receipt and transmittal of offers of gifts.
825a.25 Accounting for gift property accepted under 10 U.S.C. 2601.
825a.26 Sale of gift property.

Subpart D—Conditional Gifts not Acceptable Under 10 U.S.C. 2601

825a.27 Statutory authority.
825a.28 Procedures for accepting gifts other than under 10 U.S.C. 2601.
825a.29 Doubtful cases.
825a.30 Advice of disposition.

Subpart E—Gifts for Distribution to Individuals

825a.31 Scope of subpart.
825a.32 Acceptable gifts.
825a.33 Responsibility.
825a.34 Advertising and publicity.

BEST DOCUMENT AVAILABLE

Sec.
825a.35 Transportation charges.
825a.36 Temporary custody of gift items.
825a.37 Sample offer of gift by corporation.
825a.38 Sample offer of gift by individual.

AUTHORITY: Sec. 8012, 70A Stat. 488, secs. 2601-2603, 70A Stat. 144-145, 76 Stat. 244; (10 U.S.C. 8012, 2601-2603, 9771, 9773).

SOURCE: 44 FR 20681, Apr. 6, 1979, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation 11-26, November 13, 1978.

Subpart A—General

§ 825a.1 Purpose.

This part prescribes policies and procedures for receiving, accepting, and administering both conditional and unconditional gifts offered to the Department of the Air Force. It applies to gifts to individual members of the Department of the Air Force. It does not apply to gifts to religious funds (AFR 265-9, Chaplain Funds), or to nonappropriated welfare and sundry funds (AFR 34-3, Morale, Welfare, and Recreation Basic Responsibilities, Policies, and Practices). It does not authorize the solicitation of gifts by Air Force personnel. This part applies to all Air Force activities.

§ 825a.2 Explanation of terms.

(a) *Gift.* Includes a contribution, donation, bequest, or devise.

(b) *Gift to the Department of the Air Force.* A gift offered to the United States, or to the Secretary of the Air Force acting on behalf of the United States.

(c) *Items of Nominal Value.* Items with a value of $500.00 or less.

(d) *Tangible Personal Property.* As used here, tangible personal property is divided into three categories:

(1) *Items of Historical Significance.* Historical property items, including personal papers, having value because of their association with the history of the United States Air Force.

(2) *Items of Artistic Significance.* Paintings, prints, sculptures, and other objects of an artistic nature.

(3) *Items for Current Use.* All other goods, wares and merchandise, including items which, upon acceptance, will be used by or for the benefit of some command, organizaton, or institution under the jurisdiction of the Department of the Air Force.

(e) *Intangible Personal Property.* Money, checks, money orders, drafts, bonds, shares of stock, and similar documents with a present or future value.

(f) *Real Property.* Land and all interests in land, as well as all buildings, structures, and fixed improvements thereon.

(g) *Unconditional Gift.* A gift of real property or tangible or intangible personal property offered with no limitations upon its ownership, use, expenditure, or disposition, or offered subject only to the requirement that the gift be used in the place, manner, or purpose for which its normal use is limited by its physical nature.

(h) *Conditional Gift of Money or Other Intangible Personal Property.* Such a gift is conditional if offered with specified limitations upon its ownership, use, expenditure, or disposition.

(i) *Conditional Gift of Real Property or Tangible Personal Property.* Such a gift is conditional if it is offered on condition that it be used, or disposed of, in fewer than all of the manners, purposes, or places in which it might normally be used; or if it is offered on condition that it be used by fewer specific departments or agencies than all of the departments or agencies that would normally use such property.

§ 825a.3 Air Force policy.

The following policies will be considered in determining whether to accept or reject an offer of a gift:

(a) Whenever possible, a gift of tangible personal property of nominal value should be unconditional, provided that the costs of accepting and maintaining the item will be negligible. When a gift is offered, responsible representatives of the Air Force will, if when the opportunity arises, tactfully suggest to the donor that the offer should be unconditional.

(b) Offers of the following personal property shall, if possible, be processed and accepted under Subpart C of this part as a conditional gift:

(1) Tangible personal property of more than nominal value.

(2) Tangible personal property of nominal value involving more than negligible acceptance and maintenance costs.

(3) Money or other intangible personal property.

(c) No arrangements will be made granting special privileges or concessions to the donor.

(d) If the donor is a defense contractor or subcontractor, the donor must state that the cost of the gift will not be charged, directly or indirectly, as an element of cost or price in any government contract.

(e) A useful gift of small value to military members of the Air Force, which contributes to their welfare, health, convenience, and morale, is deemed to be a gift to an individual and not a gift to the Department of the Air Force. The Air Force may receive such a gift for distribution to military members according to Subpart E of this part.

§ 825a.4 Authority to accept or reject gifts.

The authority to accept or reject a gift offered to the Department of the Air Force is vested in the Secretary of the Air Force and designated commanders. This authority depends upon the value and kind of property offered as follows:

(a) Gifts Requiring Secretarial Acceptance or Rejection. Any gift of real property, of personal property of more than $500 value (or of less than $500 value, but which will require more than negligible expenditures for its acceptance and maintenance) must be accepted or rejected promptly by, or by direction of, the Secretary of the Air Force, subject to the policies, procedures, and restrictions of this part.

(b) Gifts that may be accepted or rejected below Secretarial Level. A gift of tangible or intangible personal property of $500 or less, that does not require more than a negligible expenditure for its acceptance and maintenance, may be promptly accepted or rejected by:

(1) The commander of a major command.

(2) The commanders of separate operating agencies.

(3) The Superintendent of the Air Force Academy. The Superintendent is also authorized to accept or reject a gift of books and library materials with a value of $1,000 or less, if they do not require more than a negligible expenditure for their acceptance and maintenance.

(4) The Director of the Air Force Museum.

(5) The Chief of the Office of Air Force History.

(6) Commanders of USAF medical facilities.

(7) The Director of Dependent Schools-Pacific area.

(c) The commander of a major Air Force installation (see AFM 11-1, Vol. I, U.S. Air Force Glossary of Standardized Terms) may also accept or reject gifts of personal property with a value of $250 or less.

§ 825a.5 Determination of the nature of an offer of a gift.

(a) An administrative determination must be made initially as to whether a gift has been offered conditionally or unconditionally, because procedures for the acceptance of conditional or unconditional gifts and property accounting are not identical (see Subparts B, C, and D of this part).

(b) If there is any doubt as to whether the offer is conditional or unconditional, it shall be processed as a conditional gift (see Subpart C of this part).

§ 825a.6 Expenses prior to acceptance.

A prospective donor will be informed by the person authorized to receive the gift that the Air Force cannot assume responsibility for defraying any expenses incurred before the offered gift is accepted and while it still is in the possession of the donor or in the temporary custody of the Air Force.

§ 825a.7 Custodial responsibility.

Except in unusual circumstances, the Air Force will not accept custody of a gift before it is officially accepted. If custody is assumed by the Air Force, the donor will be informed in writing that the Air Force cannot assume responsibility for any loss or damage to the gift before it is formally accepted.

§ 825a.8 Correspondence files.

The command receiving final custody of gift property either for use, storage, or display will retain the original letter or instrument offering the gift, and a copy of the instrument accepting the gift.

§ 825a.9 Copyrighted or patented items.

A gift of a copyrighted or patented item will be treated in the same way as a gift of an item not so protected. However, if a copyrighted or patented gift might be used for governmental purposes within the scope of the copyright or patent, it will be accepted only if the donor also grants to the Air Force a royalty-free license, to the extent necessary, under the copyright or patent, or gratuitously assigns the copyright or patent to the United States.

§ 825a.10 Gifts from foreign governments.

(a) Gifts from foreign governments to the Department of the Air Force do not require congressional approval (see AFR 900-48, Decorations, Service Awards, Unit Awards, Special Badges, Favorable Communications, Certificates, and Special Devices concerning decorations and awards from foreign governments).

(b) The Secretary of the Air Force has not delegated the authority to accept or reject gifts offered by foreign governments to the Department of the Air Force.

(c) Offers of gifts to the United States from foreign governments made under 50 U.S.C. 11511156 will be processed according to Subpart D of this part.

§ 825.11 Gifts of real property.

(a) The Secretary of the Air Force may accept gifts of land and interests therein for specific purposes (see 10 U.S.C. 9771; 10 U.S.C. 9773; and 10 U.S.C. 2601).

(b) When any person in the Air Force receives an offer of a gift of land, that person will send the offer letter, through channels, to HQ USAF/LEE, for appropriate action. The letter of transmittal will include the information required for a conditional gift of land (§ 825a.24(b)(5)).

§ 825a.12 Advice to donors concerning tax benefits.

(a) Air Force personnel will not advise a donor that a gift to the Department of the Air Force is tax-deductible, but may only call the donor's attention to 10 U.S.C. 2601.

(b) Air Force personnel will not place any valuation on a gift that a donor might offer to gain a tax benefit, but will suggest that the donor consult a civilian expert for specific tax advice.

(c) An offer will not be backdated nor will a gift be accepted on a condition that the offer be backdated for tax purposes.

§ 825a.13 Gifts not covered by this part.

If a gift is offered to the Air Force when there is no authorization to accept or reject it, the offer will be promptly forwarded, through channels, to HQ USAF. Depending upon the nature of the gift, send it to the attention of one of the officers listed in § 825a.19.

Subpart B—Unconditional Gifts

§ 825a.14 Acceptance of gifts.

In accepting an unconditional gift the following rules will be strictly observed:

(a) If an offer of a gift requires Secretarial acceptance or rejection (see § 825a.4), send it to HQ USAF for acceptance or rejection by, or by direction of, the Secretary of the Air Force.

(b) When a gift of personal property has only nominal value it may be accepted on behalf of the Secretary of the Air Force, by an officer designated in § 825a.4, if the costs of accepting and maintaining the gift will be negligible. When in doubt, process the offer as though the gift had more than nominal value.

(c) The person authorized will:

(1) Accept the gift on behalf of the United States and inform the donor in writing where to deliver or send the gift.

(2) Instruct the appropriate commander as to the disposition to be made of the item if it was delivered to a subordinate command for custody pending acceptance.

§ 825a.15 Rejection of gifts.

(a) The determination to reject an unconditional gift must be made personally by the person authorized to reject such gifts.

(b) No gift will be rejected unless it is determined that its acceptance clearly would not be in the best interests of the Air Force.

(c) Gifts may be rejected under the following circumstances:

(1) Acceptance involves the expenditure or use of funds in excess of amounts appropriated by Congress.

(2) The offered item is extremely dangerous.

(3) The offered item is in bad taste.

(4) Acceptance of the gift would raise a serious question of impropriety in light of the donor's present or prospective business relationships with the Department of the Air Force (see Part 920 of this chapter).

(5) The cost of acceptance and maintenance is disproportionate to any benefit.

(6) Any other circumstance covered by this part.

(d) When an unconditional gift is rejected, whether it was offered in writing or has been physically received, the rejection will be in writing and signed personally by the person authorized to reject the gift. The letter will acknowledge receipt of the offer (or the gift) and explain why the Air Force cannot accept it.

§ 825a.16 Procedures for receiving and transmitting offers of gifts.

(a) *Method of Offering Gifts.* An offer of an unconditional gift may be in any form, so long as it is in writing.

(b) *Transfer of Title*—(1) *Personal Property.* The title to a gift of tangible or intangible personal property passes to the United States when the offer of the gift is accepted by a person authorized to accept it.

(2) *Real Property.* The title to a gift of real property passes to the United States when a deed to that property is delivered to, and is accepted by, the Secretary of the Air Force. Before accepting a deed, the Secretary must obtain the written opinion of the Attorney General of the United States to the effect that the deed conveys good title. If a donor offers a gift of real property by any means other than a deed, and the Secretary determines that the offer should be accepted, the donor will be asked to prepare and deliver a deed.

(c) *Transmittal of an Offer.* Any person, military or civilian, in the Department of the Air Force who receives an unconditional offer of a gift which he or she is not authorized to accept, will send the offer, through channels, to the appropriate authority listed in § 825a.14. If the offer must be forwarded to HQ USAF, it must be processed through the channels prescribed in § 825a.24(b).

(1) If the offer is to be forwarded to a higher command, the letter or endorsement will give all information available to the transmitting headquarters.

(2) In the letter of transmittal for tangible personal property, including items of historical significance:

(i) Describe the item, including the quantity, condition, material, and approximate size and weight.

(ii) Indicate the item's present use, location and availability.

(iii) Describe any unusual or large expense of accepting and using the item.

(iv) Describe the donor's present or prospective business relationships with the Department of the Air Force.

(v) Include the commander's recommendation concerning the acceptance or rejection of the gift.

(vi) Summarize the item's significance to the Air Force.

(vii) Add any documentation available.

(3) Unconditional offers of gifts of real property will be processed as directed in § 825a.11.

§ 825a.17 Accounting for or disposition of unconditional gifts.

After acceptance, the disposition of the following types of gift items will be as indicated:

(a) *Money.* When an unconditional gift of money is accepted, such money will immediately be turned over to the local accounting and finance officer, for deposit to the Miscellaneous Receipts Account 571299 (Gifts to the

United States not Otherwise Classified) of the United States Treasury.

(b) *Intangible Personal Property Other Than Money.* Gifts in the form of negotiable or nonnegotiable instruments will be endorsed, or made payable to the Treasurer of the United States, and processed in the same manner as gifts of money.

(c) *Tangible Personal Property.* The disposition of personal property will depend upon the category to which it belongs and will be in accordance with the following procedures:

(1) Gifts of historical significance will be processed under AFR 210-3, Air Force Historical Program, or AFR 210-4, Air Force Museum Program, as appropriate. Direct communication between the Chief, Office of Air Force History; the Director, Air Force Museum; and other commands on the collection, inventory, and disposition of Air Force historical properties is authorized.

(2) Artistic gifts will be examined by the Secretary of the Air Force Office of Information (SAF/OICB) and used as prescribed by that office. If the shipment of an item is not practical, a photograph of it may be forwarded. A reproduction of the item will not be made without the permission of SAF/OICB and the use of such an item for purely commercial purposes is prohibited.

(3) Gifts of tangible personal property for current use will be processed according to § 825a.24(b). These items will be used for the purpose indicated by the accepting authority.

(d) *Real Property.* Gifts of real property will be used and accounted as directed in AFM 93-1.

(e) The offer of any gift from a private nonprofit organization will contain a copy of the organization's minutes which authorize the officer whose name appears on the offer, to make the gift.

Subpart C—Conditional Gifts

§ 825a.18 Statutory authority.

The Secretary of the Air Force may accept conditional gifts on behalf of the United States for certain purpose in connection with the operation of the Department of the Air Force (10 U.S.C. 2601).

§ 825a.19 Receipt and use or disposition of a conditional gift.

Responsibility for the receipt and use, or disposition, of a conditional gift is as follows:

(a) Director of Civil Engineering, HQ USAF, will maintain records for the receipt, use, and disposition of gifts of real property in accordance with AFM 93-1, Air Force Real Property Accountable Records, and such supplemental directives as may be issued.

(b) Director of Maintenance, Engineering, and Supply, HQ USAF, will prescribe the procedures for receiving, accounting, and disposing of tangible personal property (supply and equipment) for current use. Exceptions: see paragraphs (c) through (j) of this section, AFM 67-1, USAF Supply Manual and other supplemental directives.

(c) SAF/OIC will keep records for the receipt, use, reproduction, and disposition of paintings, prints, and other objects of an artistic nature.

(d) Director of Accounting and Finance (AFAFC/TC), Denver, CO 80279, will:

(1) Review each offer of a gift of money, checks, money orders, drafts, bonds, shares of stocks, and similar documents except those which may be accepted locally under § 825a.4;

(2) Process the gift for acceptance or rejection by the Secretary of the Air Force;

(3) Notify the recipient commander of acceptance or rejection and furnish instruction as to the disposition;

(4) Prescribe the accounting system to be used in reporting the collection, disbursement, and the status of all monies and proceeds of gifts deposited to the Trust Fund Receipt Account 578928, Deposits, Department of the Air Force General Gift Fund;

(5) Identify fully liquidated allocated funds of all gifts of money and similar documents deposited to the Trust Fund Receipt Account 578928, Deposits, Department of the Air Force General Gift Fund, and notify the Director of Budget, HQ USAF (AF/ACBOC) to take total final reporting (TFR) action; and

(6) Arrange for acquisition of US Government securities when required in an offer of a gift. NOTE: Amounts offered for the purchase of US Government securities will not be allocated to the recipient command.

(e) Direction of Budget, HQ USAF, upon receipt of notification that a collection has been made and deposited to the Trust Fund Receipt Account, 578928, Deposits, Department of the Air Force General Gift Fund, will establish budget authorizations and allocate funds to the major command or operating agency responsible for the designated Air Force organizations or institution.

(f) The Chief, Office of Air Force History and the Director, Air Force Museum, will keep records for the receipt, use, and disposition of Air Force historical properties under AFR 210-3 or AFR 210-4, as appropriate.

(g) The Surgeon General HQ USAF will prescribe the procedures for receiving, accounting, and disposing of all tangible personal property for use in medical facility, according to AFM 67-1, Vol. 5, Air Force Medical Material Management System—General, and supplemental directives.

(h) Director of Administration, HQ USAF, will prescribe the procedures for receiving, accounting, and disposing of tangible personal property for current use which related to records, filing, microfilming, printing, duplicating, or copying, according to AFR 6-1, Policies, Procedures, and Standards Governing Air Force Printing, Duplicating, Copying, and Microform, and 12-1, Air Force Documentation, Management and other supplemental directives.

(i) Director of Data Automation, HQ USAF, will prescribe the procedures for receiving, accounting, and disposing of tangible personal property for current use which relates to automatic data processing, according to AFM 300-6, Automatic Data Processing (ADP), and other supplemental directives.

(j) Other specialized commodities such as Military Affiliate Radio System (MARS) items, Programmed Communications Support Programs (PCSP) items, cryptographic and associated equipment, given for current use but not covered herein, will be accounted for according to procedures prescribed by the functional activity involved.

§ 825.20 Form of instruments offering gifts.

(a) An offer of a conditional gift under 10 U.S.C. 2601 may be in any form, so long as it is in writing, signed by the donor, witnessed, and dated. If the donor is a corporation or partnership, one of the officers or partners should sign the offer on behalf of the donor and include the appropriate certificate (see § 825a.37).

(b) Sample formats, containing suggested language, are at §§ 825a.37 and 825a.38. They are samples only, and appropriate changes may be made, depending upon the needs of the individual case.

(c) With respect to conditional gifts of real property under 10 U.S.C. 2601, the offer of gift is merely an offer to transfer title to the property to the Secretary of the Air Force, acting on behalf of the United States of America (see § 825a.16(b)(2)).

(d) With respect to all other conditional gifts under 10 U.S.C. 2601, acceptance of the offer of a gift effects a transfer of title to the gift property to the Secretary of the Air Force acting on behalf of the United States.

§ 825a.21 Acceptance of gifts.

The following policies govern the acceptance of conditional gifts:

(a) All conditional gifts will be accepted unles it is determined that acceptance will not be in the best interests of the Air Force.

(b) If an offer of a gift requires Secretarial acceptance or rejection (see § 825a.4), send it to HQ USAF for acceptance of rejection by, or by direction of, the Secretary of the Air Force.

(c) When a gift of personal property has only nominal value it may be accepted on behalf of the Secretary of the Air Force by officers designated in § 825a.4 if the cost of accepting and maintaining it will be negligible. When in doubt as to whether the value is only nominal or whether the cost of acceptance is negligible, process the offer as though the gift had more

than nominal value. The person who accepts a gift of nominal value will submit a copy of the instruments offering and accepting the gift to the appropriate functional activities (see § 825a.19).

(d) When Secretarial approval is required, the Air Staff office concerned will prepare the letter of acceptance and submit it, with the approval of the Office of the Chief of Staff, to the Office of the Secretary of the Air Force, for signature.

(e) Unless the offer expressly prohibits it, the Secretary of the Air Force may dispose of conditional gifts and use the proceeds for the purposes specified in the offer.

§ 825a.22 [Reserved]

§ 825a.23 Rejection of gifts.

(a) The determination to reject a conditional gift will be made personally by the individual authorized to reject such gifts.

(b) Gifts may be rejected under the circumstances listed in § 825a.15 (b) and (c).

(c) When a conditional gift is rejected, whether it has been physically received or offered in writing, the rejection will be in writing and signed personally by the person authorized to reject the gift. The letter will acknowledge receipt of the offer (or the gift) and explain why the Air Force cannot accept it. When rejection requires Secretarial approval, the Air Staff office concerned will prepare a letter of rejection and submit it, with the approval of the Office of the Chief of Staff, to the Office of the Secretary of the Air Force for signature.

§ 825a.24 Procedures for receipt and transmittal of offers of gifts.

(a) *Receipt of Offers.* Any person, military or civilian, in the Department of the Air Force may receive a conditional offer of a gift and may also receive the gift item, subject to the provisions of § 825a.7.

(b) *Transmittal of Offers.* When it is necessary to send an offer to a higher command, the letter or indorsement will give all information available to the transmitting headquarters.

(c) *Processing Gifts of Personal Property for current use.* The Air Staff office of primary responsibility (OPR) for processing a gift of tangible personal property, is determined by the type of property being offered.

(1) For example, an offer of equipment items is forwarded to HQ USAF/LEY, Wash DC 20330; medical and nonmedical items for use in a medical facility to HQ USAF/SG, Wash DC 20330; records and filing, microfilming, printing, duplicating, copying, and related equipment and documents to HQ USAF/DA, Wash DC 20330; automatic data processing equipment to HQ USAF/ACD, Wash DC 20330.

(2) When a gift of tangible personal property requires Secretarial approval, send the following information through channels to the HQ USAF OPR:

(i) Describe the item (and the quantity), its condition, material, and approximate size and weight.

(ii) State the conditions and limitations of the offer.

(iii) Explain the present use, location, and availability of the item.

(iv) Describe any unusual or large expense involved in accepting and using the item.

(v) Describe the donor's present or prospective business relationships with the Department of the Air Force.

(vi) Include the recommendation of the commander transmitting the offer (and any intermediate commanders) for acceptance or rejection.

(d) *Processing Gifts of Money and Other Intangible Personal Property.* Send offers of money or other intangible personal property to Director of Accounting and Finance (AFAFC/TC), Denver CO 80279, and give the following information in writing:

(1) State the amount involved;

(2) Describe the donor's present or prospective business relationships with the Department of the Air Force; and

(3) State the conditions of the offer if they are not specified in the formal offer.

(e) *Processing Gifts of Historical Significance.* Send a gift having historical significance that requires Secretarial approval to the Air Force Museum, Wright-Patterson AFB, OH 45433 and a gift of personal papers to

the Chief, Office of Air Force History, HQ USAF/CHO, Washington, D.C. 20314, with the information listed in § 825a.16(c)(2).

(f) *Items of Artistic Significance.* When paintings, prints, or other artistic objects are offered, they will be sent through channels to the Secretary of the Air Force (SAF/OI), Wash DC 20330, along with a summary of the item's artistic significance to the Air Force and the name of the artist.

(g) *Gifts of Real Property.* When a gift of real property is offered, the following information will be forwarded, through channels, to HQ USAF/LEE, Wash DC 20330, for review before submission for acceptance:

(1) Complete description of the land.

(2) Geographic location (including relation of the land to existing Air Force facilities).

(3) Need for the land (for example, to assist expansion of base).

(4) Type of land (for example, wasteland, agricultural, mountainous, swampland, timber).

(5) Current use of land.

(6) Availability of the land for occupancy.

(7) Buildings presently on site.

(8) Cost of acquisition, development, operation, rehabilitation, and maintenance.

(9) Availability of adjacent additional property.

(10) Accessibility of public transportation and communications systems, utility services, and public roads.

(11) Availability of housing, schools, and medical and recreational facilities.

(12) Impact on civilian economy, attitude of communities, owners, other agencies, and individuals.

(13) Approximate valuation of land.

(14) Suitability for use by other commands.

(15) Conditions under which offer was made.

(16) All pertinent facts concerning the donor's present or prospective business relationships with the Department of the Air Force.

(17) The recommendation of the commander transmitting the offer (and any intermediate commanders) as to acceptance or rejection.

§ 825a.25 Accounting for gift property accepted under 10 U.S.C. 2601.

(a) All records of property received by the Air Force under 10 U.S.C. 2601 must be kept separate from property acquired otherwise. Accounting for conditional gift property accepted under 10 U.S.C. 2601 will be as follows:

(1) *Real Property.* Records as prescribed by AFM 93-1 will be used for the accounting of real property acquired by the Department of the Air Force by gift under 10 U.S.C. 2601.

(2) *Historical Property.* Records of property having historical significance will be accounted for under AFR 210-3 or AFR 210-4, as appropriate.

(3) *Tangible Personal Property.* Personal property acquired by the Department of the Air Force by gift under 10 U.S.C. 2601 will be accounted for according to § 825a.19.

(4) *Money and Other Intangible Personal Property.* Funds received as gifts under 10 U.S.C. 2601, or proceeds from the sale or investment of these gifts, will be deposited in the Treasury to the Trust Fund Receipt account 578928, Deposits, Department of the Air Force General Gift Fund. Gifts will not be deposited in this account until the offer has been accepted by proper authority.

(i) When the gift has been accepted, AFAFC/TC will advise the recipient commander to deposit the check to Account 578928.

(ii) Gifts of money will not be spent until receipt of AF Form 401, Budget Authorization, and AF Form 402, Allocation of Allotment, from HQ USAF/ACB. Immediately after deposit, a copy of the DD Form 1311, Collection Voucher, will be forwarded through channels, to HQ USAF/ACB with a request for AF Form 401 and 402.

(iii) When a conditional gift carries a limitation on expenditures to the amount of interest earned by the gift (that is, interest from Treasury Bonds), the Treasury Department will issue certificates of deposit periodically.

(iv) When a certificate of deposit for interest earnings is received, the accounting and finance officer will prepare a collection voucher in the amount of the deposit, and forward a

copy of the voucher to HQ USAF/ACB with a request for AF Form 401 and 402. (If a Treasury certificate of deposit covers the proceeds of a redeemed bond, notify AFAFC/TCE immediately. Do not request AF Forms 401 and 402 unless directed to do so by AFAFC/TCE).

(v) Records of receipts, disbursements, and transactions concerning gift funds will be kept, as required, by pertinent accounting and finance directives. Gifts of negotiable instruments will be endorsed or made payable to the Treasurer of the United States, and processed in the same manner as gifts of money.

(5) *Artistic Property.* Records of property with artistic significance will be kept by SAF/OICB.

(b) Property records will positively identify the property as gift property.

(1) The records described in paragraphs (a) (1), (2), (3), and (5) of this section, will be prominently and clearly stamped in the following manner: "PROPERTY ACQUIRED UNDER PROVISIONS OF 10 U.S.C. 2601."

(2) The records described in paragraph (a)(4) of this section, will be prominently and clearly stamped: "FUNDS ACQUIRED UNDER PROVISIONS OF 10 U.S.C. 2601."

§ 825a.26 Sale of gift property.

(a) The Secretary of the Air Force may, except when specifically prohibited by the terms of the offer, sell any gift or property received under 10 U.S.C. 2601.

(b) The Superintendent of the Air Force Academy, may, except when specifically prohibited by the terms of the offer, sell any books and library materials deemed excess to the needs of the Academy library.

(c) The proceeds of sale shall be treated in the same manner as a gift of money. The proceeds will be deposited in the appropriate account and will be subject to disbursement at the discretion of the Secretary of the Air Force in accordance with the terms and conditions of the gift.

Subpart D—Conditional Gifts Not Acceptable Under 10 U.S.C. 2601

§ 825a.27 Statutory authority.

Basic authority for the acceptance by the United States of all gifts which are offered for the purpose of furthering the defense effort is 50 U.S.C. 1151-1156.

(a) *General Provisions.* (1) The Secretary of the Treasury is authorized to accept or reject, on behalf of the United States, any gift of intangible personal property "made on condition that it be used for a particular defense purpose."

(2) The Administrator of General Services is authorized to accept or reject, on behalf of the United States, any gift of other property, real or personal, "made on condition that it be used for a particular defense purpose."

(3) The Secretary of the Treasury and the Administrator of General Services are required to consult with the interested Federal agencies in carrying out the provisions of this statute.

(b) *Limitations.* (1) The statute does not modify or repeal the authority to accept conditonal gifts granted under any other provisions of law.

(2) The authority of the Secretary of the Air Force under 10 U.S.C. 2601 to accept or reject a conditional gift is unimpaired by the provisions of this statute.

§ 825a.28 Procedures for accepting gifts other than under 10 U.S.C. 2601.

When a conditional gift (or offer of a gift) is received by an Air Force command and it is determined that the gift cannot be accepted under 10 U.S.C. 2601 and under Subpart C, the following steps will be taken:

(a) Money or Other Intangible Personal Property: The receiving command will:

(1) Acknowledge receipt of the gift and its referral to the Treasury Department, but will not indicate acceptance or rejection of the gift on behalf of the United States.

(2) Send the money or other intangible personal property, together with the acknowledgment and original correspondence, to the Treasury Depart-

ment, Bureau of Accounts, Administrative Division, Wash DC 20220.

(3) In the letter of transmittal to the Treasury Department, recommend acceptance or rejection of the gift and cite the appropriation or fund account to which the proceeds of the gift should be credited to carry out the donor's intent.

(b) Real Property or Tangible Personal Property. The command receiving a conditional offer of a gift of real property or tangible personal property will:

(1) Acknowledge receipt of the offer and advise the donor of its referral to the General Services Administration regional office but will not indicate acceptance or rejection of the gift on behalf of the United States.

(2) Notify the appropriate regional office of the General Services Administration and recommend acceptance or rejection of the gift.

(3) Send a copy of the acknowledgment with notification and recommendation to the regional office of the General Services Administration.

§ 825a.29 Doubtful cases.

In case of doubt as to whether a conditional gift may properly be accepted under 10 U.S.C. 2601 or whether it must be accepted under 50 U.S.C. 1151-1156, such doubt shall be resolved in favor of 10 U.S.C. 2601 and the offer of gift processed under Subpart C of this part. The final determination shall be made at HQ USAF, and the gift transmitted to the General Services Administration or the Treasury Department if such action is indicated.

§ 825a.30 Advice of disposition.

The Fiscal Assistant Secretary of the Treasury (in the case of a conditional gift of money or intangible personal property) and the Administrator of General Services (in the case of a conditional gift of real or tangible personal property) are responsible, respectively, for the official acceptance or rejection of the gift and for notifying the donor and the agency concerned of the action taken.

Subpart E—Gifts for Distribution to Individuals

§ 825a.31 Scope of subpart.

This subpart establishes policy and procedures for the receipt by the Air Force of certain types of gifts for distribution to military personnel. This subpart refers to personal gifts to Air Force members and employees, not to official gifts to the Department of the Air Force.

§ 825a.32 Acceptable gifts.

Only gifts on nominal value of a desirable and useful nature that contribute to the health, comfort, convenience, or morale of military personnel may be received under the provisions of this subpart. (For example: Playing cards, books and written material for hospitalized airmen.)

§ 825a.33 Responsibility.

Subject to the policies, procedures, and limitations stated here:

(a) CONUS major commands may receive gifts intended for distribution to personnel within their respective commands. This authority may be delegated to subordinate commanders.

(b) Oversea major commanders may receive gifts from donors located within their geographic areas. This authority may be delegated to subordinate commanders.

(c) The Commander, Air Force Manpower and Personnel Center, Randolph AFB TX 78148, is designated to receive gifts from persons or organizations in the United States for distribution to oversea commands, and for CONUS distribution when gifts are intended for military personnel of more than one major command.

§ 825a.34 Advertising and publicity.

Receipt of gifts of the nature contemplated by this subpart will be subject to the following provisions:

(a) By the Donor of the Gift. Restrictions will not be placed on advertising or publicity by the donor. However, such advertising or publicity should not imply an indorsement of the product by the Air Force or any member of it.

(1) A donor may place on the gift a marking which identifies the property as being donated by a particular person, group, or organization. However, the marking must be in good taste and must not be worded so that it indorses (or implies an indorsement of) the product by the Air Force or any AF member or employee.

(2) Receipt by an Air Force commander of a gift so marked will not be construed as either advertising or publicity of the gift by the Air Force.

(b) By the Commander Receiving the Gift for Distribution:

(1) The receipt of the gift will not be publicly acknowledged exept in special cases, and where specifically authorized by the Secretary of the Air Force. The commander authorized to receive the gift will acknowlede its receipt by an appropriate letter to the donor on behalf of the military personnel of the command concerned.

(2) Arrangements will not be made which entail granting of special concessions of privileges to the donor.

(3) Publicity will not be initiated by the receiving commander.

§ 825a.35 Transportation charges.

(a) Packaging and Transportation Charges Paid by the Donor. Except for the gifts discussed in paragraph (b) of this section, gifts under this subpart will be received only if the donor pays all packaging and transportation charges to the following points:

(1) Gifts for Distribution in the CONUS. Gifts will be sent to the distribution point or points designated by the receiving commander or Commander, Air Force Manpower and Personnel Center, Randolph AFB TX 78148.

(2) Gifts for Distribution in Oversea Commands. Gifts will be sent to the port of embarkation of other coastal activity designated by the Commander, Air Force Manpower and Personnel Center, or to the point designated by the receiving oversea commander. Oversea commanders will make all necessary arrangements with the port of embarkation for shipment of gift property to its destination in the overseas area.

(b) Transportation Charges Paid by the Air Force. When the following conditions are met the Air Force may pay transportation charges from current appropriations for gifts in this section:

(1) The gift consists of supplies or materials that would otherwise be purchased with appropriated funds and transported to their destination at government expense.

(2) No conditions of any kind are attached to the gift.

§ 825a.36 Temporary custody of gift items.

If an offer of property for distribution to individuals is made to an individual who is not authorized to receive it, and the donor specifically requests that the Air Force assume custody while the proper procedure is being determined, the donor will be informed that the Air Force cannot assume responsibility for any loss or damage to the property before it is delivered to the point designated by the person authorized to receive the gift.

§ 825a.37 Sample offer of gift by corporation.

OFFER OF GIFT

Know All Men by These Presents:

That the (Name of Company), a corporation, the owner of the property listed below, acting by and through (Name of Corporate Officer Signing), (The President), (One of its Vice Presidents) (————————), does hereby voluntarily give, transfer, convey, and assign said property, free and clear of all encumbrances, to the Secretary of the Air Force, acting on behalf of the United States of America, to have and to hold the same forever, hereby relinquishing for itself, its successors, and assigns all ownership, rights, title, interest, and possession therein to the donee absolutely: (Description of Property).

The herein described gift and transfer of said property does not entail the granting by the donee of special concessions or privileges to the donor.

The herein describes gift and transfer of said property is made for the benefit of or use in connecting with the establishment, operation, or maintenance of (Designated Air Force Organization or Institution) or other institution or organization under the jurisdiction of the Department of the Air Force, in conformance with 10 U.S.C. 2601.

IN WITNESS WHEREOF the (Name of Company) has affixed its seal and caused this instrument to be executed by (Name of Person Signing), (The President), (One of

its Vice Presidents) (————————), for and on behalf of the (Name of Company) this (Day) of (Month) (Year).

————————————————

(Name of Company)

————————————————

By (Signature)

CERTIFICATE

I, (Name), certify that I am the (Secretary) (Assistant Secretary) (————————) of the (Name of Company), a corporation: that (Name), who signed the Offer of Gift dated (——), on behalf of the (Name of Company), is (The President) (A Vice President) of the (Name of Company); and said Offer of Gift was duly signed for and on behalf of said corporation by authority of its governing body and is within the scope of its corporate powers. (Date) —— (Date) —— (Name) ———————— (Corporate Seal)

NOTE: For offers of gifts of real property, the above language should be modified as follows:

In the first paragraph, after the word "voluntarily," add the words "offer to" and change the phrase "hereby relinquishing" to read "relinquishing upon such gift and conveyance."

At the end of the first paragraph, add the following sentence: "Pursuant to this offer, I will deliver to the Department of the Air Force a deed transferring valid title to said property to the Secretary of the Air Force, acting on behalf of the United States of America."

In the first line of both the second and third paragraphs, change the phrase "The herein described gift and transfer of said property * * *" to read, "The gift and conveyance of said property offered herein * * *"

If the gift of real estate is under a different statute, cite that statute instead of 10 U.S.C. 2601.

§ 825a.38 Sample offer of gift by individual.

OFFER OF GIFT

Know All Men by These Presents:

That I, (Name), the owner of the property listed below, due hereby voluntarily give, transfer, convey and assign said property, free and clear of all encumbrances, to the Secretary of the Air Force, acting on behalf of the United States of America, to have and to hold the same forever, hereby relinquishing for myself, my executors, administrators, heirs and assigns all ownership, rights, title, interest and possession therein to the donee absolutely: (Description of Property).

The herein described gift and transfer of said property does not entail the granting by the donee of special concessions or privileges to me or my executors, administrators, heirs and assigns.

The herein described gift and transfer of said property is made for the benefit or of use in connection with the establishment, operation, or maintenance of the (Designated Air Force Organization or Institution) or other institution or organization under the jurisdiction of the Department of the Air Force, in conformance with 10 U.S.C. 2601.

————————————————

(Signature) (seal)

————————————————

(Dated)

Witness:

————————————————

(Signature)

NOTE: See the note in § 825a.37.

PART 826 [RESERVED]

PART 827a—RELEASE OF INFORMATION ON ACCIDENTS

Sec.

827a.0 Purpose.

Subpart A—General

827a.1 Definitions.
827a.2 Policy.
827a.3 Control of photography.
827a.4 Release of information.
827a.5 Preparation of news releases.
827a.6 Liaison with news media.

Subpart B—Nuclear Accidents and Incidents

827a.7 Background.
827a.8 Responsibility for releasing information.
827a.9 Release procedures.
827a.10 Liaison with news media.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: 33 FR 14953, Oct. 5, 1968, unless otherwise noted.

§ 827a.0 Purpose.

This part establishes procedures for releasing information on Air Force aircraft, missile, vehicular, nuclear, chemical, biological, nonnuclear muni-

tions, and toxic material accidents to news media as quickly as possible. It does not provide detailed instructions for every situation that might develop. It does furnish guidelines to positive actions that must be taken to protect classified defense information and at the same time meet the needs of public news media.

Subpart A—General

§ 827a.1 Definitions.

Explanations of the following terms conform to those given in DoD Instruction 5230.16 and are applicable for the purpose of this part:

(a) *Base.* Any Air Force installation on active status.

(b) *Classified defense information.* Official information which must be safeguarded in the interest of national defense and is classified for that purpose by an appropriate classifying authority. It includes documents, material, or equipment in which classified information is recorded or embodied.

(c) *Nuclear accident.* An accident involving nuclear weapons or nuclear components which results in any of the following:

(1) Nuclear detonation.

(2) Nonnuclear detonation.

(3) Radioactive contamination.

(4) Loss of, or serious damage to, a nuclear weapon or nuclear component, including jettisoning.

(5) Public hazard, actual or implied.

(d) *Photograph.* Any plate, negative, print, sketch, or other form of graphic representation.

(e) *Significant incident.*

NOTE: The term "incident" is synonymous with "significant incident" as explained in paragraphs (e) (1) and (2) of this section.

(1) An incident involving nuclear weapons or nuclear components which required immediate action in the interest of safety or which may result in premature release of information or adverse public reaction (national or international).

(2) Any unexpected event which prudence and good judgment dictate to be of such immediate or potential consequence as to warrant the informational interest of the Department of Defense, the Joint Chiefs of Staff, and the Atomic Energy Commission. This will include damage to a nuclear weapon or nuclear component to the extent that major replacement is required.

NOTE: The Air Force nickname "Bent Spear" (nuclear incident) is not necessarily equivalent to significant incident. A "Bent Spear" report must always be evaluated to determine whether it should be classified as a significant incident.

§ 827a.2 Policy.

(a) Air Force policy is to keep the public informed on a timely basis of Air Force activities, whether favorable or unfavorable. Every consideration must be given to meeting the needs of public information media. Therefore, unclassified information about Air Force accidents or missing aircraft will be released promptly to news media representatives. Air Force units will provide maximum cooperation, consistent with national security responsibilities, to properly identified U.S. news media representatives who are covering military accidents.

(b) After an accident, the following actions are of major importance: Rescuing the injured; preventing further injury and loss of life; protecting property and investigative data (AFR 127-4 Investigating and Reporting USAF Accidents/Incidents) from loss or damage; safeguarding classified defense information; and meeting the needs of public information media. Satisfying these urgent requirements under the trying conditions normal at accident scenes calls for close cooperation and mutual understanding between the Air Force and news media representatives.

(c) Such cooperation is particularly important in protecting classified defense information. The Air Force is authorized and obligated, by Federal law and Executive Order, to protect such information. All Air Force personnel share the obligation to protect classified material both on and off base. Therefore, after an accident, the safeguarding of classified defense information is of major concern. Air Force protective actions are concerned only with preventing compromise of classified defense information, howev-

er, not with executing Federal criminal law.

(d) Commanders of Air Force installations will advise local civil law enforcement officials in advance that the Air Force may call upon them for assistance and cooperation when military accidents occur outside military installations. These officials should be informed that Federal law makes the unauthorized photographing, unauthorized publishing, or refusal to properly surrender classified defense information a criminal offense (18 U.S.C. 793(e), 795, 797).

(e) Commanders and information officers will inform local news media and civil defense officials about Air Force policies on handling accidents and about the legal provisions in paragraph (d) of this section. When possible, the information will be provided through conferences attended by news media representatives, local civil defense officials, base information officers, and base operations and security police representatives.

(f) Base information officers will coordinate the release of casualty information with the base casualty reporting officer to insure that the information provided the next of kin is consistent with that released to the news media. Next of kin of killed or seriously injured military personnel will be notified as required by AFM 30-4 (Casualty Services).

(g) Community relations aspects of off-base aircraft accidents will be handled according to AFR 190-4 (Community Relations and Emergency Assistance Procedures After an Off-Base Aircraft, Missile, Ground, Water, or Explosives Accident).

(h) When more than one service is involved in accidents, information will be released according to AFR 190-8 (Release of Information When More Than One Service is Involved in Accidents or Incidents).

(i) Accidents involving chemical or biological materials will be handled according to Confidential SAFOIX ALMAJCOM message 724/64, March 26, 1964, AFR 355-7 (Response to Major Peacetime Accidents Involving Nuclear and Nonnuclear Weapons, and other Dangerous Materials), AFR 190-4, and this part as supplemented by more detailed and specific instructions issued in a movement and/or operations plan or order.

(j) Each major command will develop, and insure that its subordinate commands and bases develop, comprehensive nonnuclear and nuclear accident information plans, and review them for adequacy at least annually. The format may be a plan, regulation, or supplement, as appropriate or as directed. Nuclear plans will include provisions for contingency or additional coordinated releases or modifications of releases that may be made under particular conditions.

§ 827a.3 Control of photography.

(a) *Outside military installations within the United States and its territories.* (1) At the scene of an accident, Air Force representatives should advise news media representatives, to the extent feasible, not to go too close for their own safety, when there is danger of an explosion or other hazard. Media representatives will also be advised not to interfere with firefighting and investigative activities; however, Air Force personnel will not forcefully exclude media representatives from nonnuclear accident areas.

(2) If the senior Air Force representative at the scene is qualified to do so, he will determine, as soon as possible, whether classified defense information is exposed. If he is not qualified, he will immediately summon someone who is. This determination must be made as soon as possible. If no classified defense material is exposed, the Air Force representative will permit photographs. If classified defense information is exposed, he will have it covered or removed immediately before permitting photographs.

(3) If exposed classified defense information cannot be removed or covered immediately, the senior Air Force representative will advise news media representatives that he cannot give permission to make photographs. Also, he will:

(i) Inform news media representatives of the presence of exposed classified defense information which cannot be removed or covered immediately, and ask them to cooperate in its pro-

tection. Inform photographers that violations of the prohibition on photographing classified defense information are also violations of Federal criminal statutes (18 U.S.C. 795, 797).

(ii) Refrain from using force if news media representatives refuse to cooperate in protecting the classified defense information, but request:

(*a*) The assistance of appropriate civil law-enforcement officials in preventing compromise of such material and in recovering all photographs, negatives, and sketches presumed to contain classified defense information; and

(*b*) The cooperation of the superiors of the offending news media representatives, informing them that publication of the classified defense information or refusal to return it to military authority will be a violation of Federal statutes (18 U.S.C. 793(e), 795, 797).

(iii) Submit to the Assistant Secretary of Defense (Public Affairs) (ASD/PA), through channels, a message report concerning refusals of news media representatives or their superiors to cooperate as prescribed in paragraphs (a)(3) (i) and (ii) of this section.

(4) If the senior Air Force representative at the accident scene does not know whether classified defense information is exposed, he will so inform photographers and advise them that he cannot give permission to make photographs. He will also explain that if they take pictures without permission, they may violate Federal law and compromise national security (18 U.S.C. 795, 797). Air Force personnel will not physically restrain news media photographers from making photographs.

(b) *Outside an Air Force installation in a foreign country.* Actions restricting photographs of accidents will be according to treaties, intergovernment agreements, understandings, laws of the host country, and implementing instructions issued by oversea commanders concerned. Oversea commanders will publish appropriate supplements to this regulation for their areas of responsibilities, consistent with the provisions of applicable treaties, agreements, understandings, and laws.

(c) *Within an Air Force installation.* (1) Competent authority will determine as quickly as possible whether classified defense information is exposed. If none is, news media photographs will be permitted. If classified defense information is exposed, it will be removed or covered as soon as possible and photographs will then be permitted.

(2) If classified defense information is exposed and cannot be removed or covered, all civilian photographs will be forbidden. If photographs are made, they will be taken into military custody for prompt development and examination. Receipts for the photographs will be given. Upon development, photographs that show no classified defense information will be returned to the person who made them. Any that show classified defense information will be turned over to the Office of Special Investigations.

§ 827a.4 Release of information.

(a) Upon being advised that an accident has occurred, the commander of the base nearest the scene will instruct his information officer to provide all releasable information to news media as quickly as possible. If he does not have an information officer, the commander must personally assume responsibility for releasing information until a qualified information officer is available from another installation. After his initial report to news media, the commander or information officer will remain in communication with officials at the crash site and with news media. If additional information personnel are available at the base, the information officer will go to the site of the accident, or send a representative as quickly as possible. If both the commander and the information officer visit the scene, an information representative must remain at the base to answer queries from news media.

(b) Major commands will periodically call to the attention of installation commanders without primary duty information officers the regulatory provisions and requirements for release of

90-112 O—82——14

accident information to public news media.

§ 827a.5 Preparation of news releases.

(a) *Accidents in which casualties do not occur.* Unclassified facts, substantially as follows, will be released as quickly as possible to news representatives:

(1) Statement that the accident occurred.

(2) Location and time of accident.

(3) Time and place of aircraft departure and destination.

(4) Biographical information about persons involved.

(5) Type of aircraft. (Do not give exact designation of experimental model not yet announced, nor indicate type when it would disclose the nature of a classified mission.)

(6) Facts of the mission in which the aircraft was engaged. (When circumstances permit, avoid use of the term "routine training flight"; give full facts within the bounds of security.)

(7) A statement, in answer to questions about the accident cause, that a "board of qualified officers will investigate the accident." (This should be the customary reply to questions of this nature.)

(b) *Accidents in which casualties occur.* Unclassified facts pertaining to the accident, as explained in paragraph (a) of this section, may be released at once. Names of casualties will be released as follows:

(1) Accidents on Air Force Installations:

(i) Names and addresses of deceased military personnel will be withheld until the next of kin have received notification, or until 4 hours after the official notification has been dispatched. Names will be released individually, however, as soon as one of these criteria is met. Simultaneous release is not required. Names of survivors, including the seriously injured, may be released as soon as they are positively identified.

(ii) Every effort, consistent with requirements for accuracy, should be made to release names, ages, and addresses of survivors when news of the accident itself is released, or as soon thereafter as possible. This will lessen the anxiety of relatives.

(2) Accidents off Air Force installations.

(i) When a military aircraft crashes in or on the border of a city or town, or when an accident causes civilian casualties or appreciable damage to property, or otherwise results in a major impact on the civilian domain, the names and addresses of military personnel concerned will be released as soon as they are positively identified.

(ii) If a military aircraft crashed in a locality remote from populated areas and does not cause civilian casualties or appreciable property damage, or otherwise result in a major impact on the civilian domain, the names and addresses of military personnel may be withheld until the next of kin have received official notification of the accident, or until 4 hours after the notification is dispatched.

(iii) If military personnel figure in accidents involving civilian or military automobiles, trains, commercial or private airplanes, or in any other accident not involving a military aircraft, their names, ages, and addresses will be released as soon as they are identified.

(iv) The information officer of the departure base will immediately release to news media the entire passenger list (and the crew, if military) of military passenger or chartered aircraft officially declared missing or known to have crashed or ditched in a remote area.

(3) Information from nonmilitary sources: Sometimes news media representatives may obtain from nonmilitary sources positive identification of persons fatally injured in a military aircraft accident. Unless immediate release is required under paragraph (b)(2)(i) of this section, military confirmation will not be given until next of kin have been officially notified, or until 4 hours after the official notification has been dispatched.

(c) *Overseas.* (1) The major commander will release names of casualties to news media 24 hours after the casualty report is transmitted under AFM 30-4, or when acknowledgment of the casualty report is received, whichever is earlier.

(2) Major commanders may delegate release authority to subordinate commands.

(d) *Releasing names of foreign nationals.* When foreign nationals under Air Force auspices are accident casualties, regardless of where the accident occurs, the release of their names will be withheld until 48 hours after dispatch of the casualty report to Hq USAF.

(e) *Air Force photography.* Official Air Force accident photographs that do not reveal classified defense information and do not show bodies or parts of bodies may be released to news media.

(f) *Courier personnel.* If a military courier is involved in an Air Force aircraft accident, the courier status of the person will not be revealed until all the classified documents being transported by him have been recovered by competent U.S. officials, to avoid jeopardizing the security of classified documents that could be in his possession.

§ 827a.6 Liaison with news media.

(a) Accident areas outside military installations are sometimes roped off or surrounded by a cordon to protect the public from danger of fire, explosion, or other hazards; prevent disturbance or theft of Government property, including material essential to determination of accident causes; or preclude compromise of classified defense information. Bona fide news media representatives normally will be permitted to enter the roped-off or cordoned area. However, if a qualified military authority has determined that classified defense information is exposed:

(1) The Air Force representative will so advise media representatives and civil authorities. He will ask media representatives not to enter the area from which the classified information can be seen, or to leave it if they are already present. If they refuse to cooperate, the Air Force personnel will not restrain them by force. The procedures in § 827a.3(a)(3) will be followed.

(2) As rapidly as releasable information becomes available at the accident area command post, it will be released to media representatives who have been asked not to enter or remain in areas in which classified defense information is exposed. As soon as the classified defense information has been removed or covered, the information officer will invite news media representatives to enter the area.

(b) When feasible, Air Force information officers will supply identifying badges to news media representatives visiting a crash area. The badges will be issued on a temporary basis and will be collected by the information officer or his representative as the newsmen leave the accident scene.

Subpart B—Nuclear Accidents and Incidents

§ 827a.7 Background.

(a) In an accident or incident involving a nuclear weapon, nuclear warhead, or reactor, the possibility of a nuclear explosion is remote. Other nuclear materials do not present a possibility of nuclear explosion.

(b) All U.S. nuclear weapons and warheads incorporate positive safety features. Sound operational procedures, coupled with constant training and supervision, further increase their safety.

(c) When an accident involves nuclear weapons or warheads, it is possible that the conventional high-explosive component may explode or burn. Such an explosion or burning would not produce an atomic detonation and its associated fallout; however, the blast or burning of the high-explosive components may scatter the raw nuclear materials and cause contamination.

(d) To minimize damage to property and protect persons in the immediate location from possible contamination, Air Force directives require all major commands to insure that bases under their jurisdiction develop and maintain an effective accident response program. AFR 355-7 (Response to Major Peacetime Accidents Involving Nuclear and Nonnuclear Weapons, and Other Dangerous Materials) directs all major commands to insure that bases under their jurisdiction develop and maintain an effective capability to cope with accidents involving nuclear weapons.

(e) National security dictates that only limited information be released on nuclear weapons, warheads, or materials; normally, the presence of either nuclear weapons or nuclear components will be neither confirmed nor denied. As an exception, however, in any incident or accident involving a nuclear weapon, official confirmation of the presence of such weapon may be made when it will have significant value in conjunction with public safety or as a means of reducing or preventing widespread public alarm. Such official confirmation might be needed if an accident requires the evacuation of personnel, or is followed by radiation team or other unusual activity observable by the general public which results in generation of alarm, thus necessitating a factual, official statement of reassurance. If such announcements are required, local civil law enforcement and Civil Defense officials will be informed promptly that unclassified information about accidents in which nuclear weapons, warheads, or materials are present will be released, in acordance with this subpart, as soon as possible. Responsible commanders as defined in § 827a.8(a)(1) will give such releases priority after immediate emergency safety actions have been taken.

(f) Only responsible commanders and information officers may release information about nuclear accidents to the public or discuss such accidents with news media. Responsible commanders may authorize interviews with personnel concerned with the accident; however, all personnel should be advised to exercise extreme caution in making public statements on the subject, and be briefed properly regarding the safeguarding of classified information.

§ 827a.8 Responsibility for releasing information.

(a) *In the United States.* (1) The Air Force commander having physical possession of nuclear weapons, warheads, or other nuclear materials involved in the accident has and maintains primary responsibility for releasing information concerning the accident. This conforms to the Joint Department of Defense and Atomic Energy Commission agreement of May 9, 1966, on the general areas of responsibility and general procedures required for prompt, effective, and coordinated response to accidents involving radioactive material.

(2) If the commander with primary responsibility is not immediately available or capable of making such releases, the commander of the military installation or facility nearest the scene of the accident will assume responsibility until relieved by the Air Force commander having primary responsibility.

(3) The commander of primary responsibility will assume release responsibility at the scene of the accident as soon as possible and will conduct all information activities until action on the accident is completed.

(4) The major command concerned will immediately dispatch a senior information officer, and any other qualified specialists required, to the accident scene. The command information officer will assist the responsible commander in handling information about the accident.

(b) *In unified and specified commands.* The specific information actions to be taken in connection with nuclear accidents, and the manner in which they are carried out, will be according to the Unified or Specified Command Plan for nuclear accidents. These plans will be based on DoD Instruction 5230.16.

§ 827a.9 Release procedures.

The following procedures have been established to insure prompt release of information by a responsible official at the scene, should a nuclear accident occur:

(a) *Within the United States and Its Territories.* (1) The responsible or interim commander (whichever is first on the scene) will immediately insure that all unauthorized personnel are cleared from the immediate vicinity of the accident for a distance of at least 2,000 feet, according to AFR 355-7. The commander will authorize bona fide news media representatives to enter the cleared area as soon as he considers it safe and classified nuclear materials have been secured. To insure

that the public promptly receives complete and accurate accident information, within security limitations, the commander will place information personnel at the accident-scene command post to assist news media representatives.

(2) The responsible (or Interim) commander will release accident information to the public as soon as possible.

(3) After the responsible commander and his information officer arrive on the scene, the interim commander will continue to provide any information, personnel, and logistical support required.

(b) *Overseas.* (1) Commanders with responsibilities in areas outside the United States or its territories will develop contingency announcements and methods of release in consultation with the chief of the U.S. diplomatic mission in the country concerned. Plans and directives will include appropriate procedures for expeditiously informing the government concerned and the chief of the U.S. diplomatic mission of emergency news releases, and where applicable for use of the host government's public release facilities. If time permits, such announcements should be made with the concurrence of the chief of mission. When feasible, plans for such concurrence should be worked out in advance.

(2) Plans will be submitted to the appropriate unified command for final review and approval. After approval of the plans, the information officer will clear the contingency announcements and release methods with the host government only with the agreement of the chief of mission and only with a representative of the host government specified by him. In some cases, the chief of mission may have to make the approach himself if one is to be made.

§ 827a.10 Liaison with news media.

In preparing to cope with nuclear accidents, commanders will insure that all information officers, in conjunction with base disaster preparedness officers and directors of security police, initiate and maintain an active program of briefings, meetings and personal contacts with local-area police, fire, safety, and Civil Defense officials and news media. The program should accomplish these objectives:

(a) Promote widespread understanding about nuclear safety and the precautions and procedures the Air Force has established to eliminate hazards to personnel and the public should an accident involving nuclear weapons, warheads, or materials occur.

(b) Seek cooperation of local civil officials and news media to insure that information available to the public about nuclear accidents is accurate, timely, and as complete as security limitations permit.

(c) Encourage the preparation of joint plans and procedures that complement Air Force, local base, and tenant unit plans for release of information on nuclear accidents. Air Force representatives should help local officials develop mutually beneficial plans and programs.

PART 828—REWARDS FOR RECOVERY OF LOST AIR FORCE PROPERTY

Sec.

828.1 Purpose.
828.2 Who may offer awards.
828.3 Persons and cases not eligible for rewards.
828.4 When and to whom rewards will be paid.
828.5 Amounts of rewards.

AUTHORITY: Sec. 8012, 70 A Stat, 488; 10 U.S.C. 8012.

SOURCE: 45 FR 73653, Nov. 6, 1980, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation 67-5, July 3, 1975.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 828.1 Purpose.

This part authorizes monetary rewards to individuals and organizations for the recovery of, or information leading to the recovery of, lost Air Force property. It does not apply to stolen property.

§ 828.2 Who may offer rewards.

(a) All commanders are authorized to offer rewards for the recovery of, or information leading to the recovery of, lost Air Force property. They must:

(1) Study carefuly each case for which a reward might be offered.

(2) Consider the importance of the recovery of the item to the Air Force as well as the dollar value of the property.

(b) All offers of, or payments of, rewards for recovery of property from the navigable waters of the United States or from the high seas must first be coordinated with the Staff Judge Advocate having jurisdiction over the installation from which the offer or payment is to be made. A general release will be obtained, if possible.

§ 828.3 Persons and cases not eligible for rewards.

(a) Military or civilian personnel of the Armed Forces of the United States or any other officer or employee of the US Government.

(b) Agencies of the US Government.

(c) If payment would be inconsistent with local laws, prevailing customs or practices, governing treaties, or international agreements.

§ 828.4 When and to whom rewards will be paid.

When lost Air Force property or information leading to its recovery is submitted by a person or organization who:

(a) Has knowledge that a reward is being offered for the return of the property.

(b) Has knowledge that there is a general practice of offering rewards.

§ 828.5 Amounts of rewards.

The following table governs the monetary amounts of rewards offered.

Item	Standard amount	Maximum amount
Aircraft	$100	$500
Missiles	100	500
Communications and electronic equipment	50	200
Any airborne item lost in flight or from crashed aircraft not located by search and rescue	25	100
Flying clothing & equipment	25	50
Other items	25	50

(a) Base commanders are authorized to offer rewards of standard amounts.

(b) Major commands are authorized to approve offers of rewards up to maximum amounts.

PART 829—ORGANIZING AND OPERATING OFF-BASE PATROLS

Sec.
829.1 Purpose.
829.2 Mission of off-base patrols.
829.3 Uniform and equipment.
829.4 Joint activities with civilian police.
829.5 Restrictions on patrol activities.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: 29 FR 13967, Oct. 9, 1964, unless otherwise noted.

§ 829.1 Purpose.

This part establishes policies for organizing and operating off-base patrols.

§ 829.2 Mission of off-base patrols.

(a) The primary mission is to:

(1) Preserve order among members of the Armed Forces who are now on leave or on pass. The patrols will not control the way a member of the Armed Forces uses his free time unless the person's actions would be harmful to his health and welfare or would discredit the military service.

(2) Give assistance and information.

(3) Apprehend or otherwise control military personnel who violate laws and regulations. This action occurs mainly in the absence of civilian enforcement authorities or when there is a joint agreement between the Air Force and local enforcement authorities.

(b) The secondary mission is to apprehend deserters and members of the Armed Forces who are AWOL.

§ 829.3 Uniform and equipment.

(a) Air policemen on off-base patrol duty will wear the prescribed air police uniform and equipment. Firearms may be worn when authorized by the com-

mander; however, the commander will make sure that personnel are fully qualified to handle and use the weapon.

(b) Air Force vehicles used for off-base patrol will usually carry prescribed air police markings and accessories. However, Air Force vehicles utilized by Armed Forces police detachments will be distinctively marked.

§ 829.4 Joint activities with civilian police.

Air police are encouraged to cooperate with local civilian police agencies in order to insure mutual assistance and exchange of information. At the same time, they will observe the following limitations on direct participation in joint activities:

(a) Air police will not ride with civilian police in civilian patrol cars on regular patrol routes. However, they may accompany civilian enforcement authorities when joining with them to arrest military offenders and to investigate crimes incident to such arrests.

(b) Air police and other Air Force personnel may be detailed to assist local law enforcement officials at special functions or events attended by large numbers of military personnel. They will not be employed to direct, order, or otherwise exercise authority over civilians at such events.

(c) Air police will not be deputized or otherwise appointed to any position authorizing them to act as civil law enforcement officers, nor will they take any action to enforce or assist in the enforcement of civil law (Posse Comitatus Act).

§ 829.5 Restrictions on patrol activities.

(a) Air police on off-base patrol have no jurisdiction over civilians who are not subject to military law. If they suspect that a person in civilian clothing is a member of the Armed Forces who is AWOL or guilty of some other offense, they should ask civilian police to determine his identity.

(b) Air police will keep to a minimum the public pass checking of Armed Forces personnel in uniform. Indiscriminate checking of passes arouses resentment and ill feeling and usually accomplishes no useful purpose. Ordinarily, air police should not check a pass unless its owner's conduct or appearance requires correction or arouses suspicion.

(c) Air police patrols will not regularly enter public establishments. However, they may do so when necessary to observe the conduct of military patrons or put down a disorder, or when requested by the management. Also, commanders and directors or chiefs of security and law enforcement may designate particular establishments for regular patrol checks. Special attention should be given to "Off-Limits" establishments.

PART 832—EMPLOYMENT OF CIVIL AIR PATROL

Subpart A—Employment of Civil Air Patrol

Sec.

832.1 Purpose.
832.2 Use of CAP services by the Air Force.
832.3 CAP mission employment by the Air Force.
832.4 Use of Air Force funds.
832.5 CAP accidents or incidents.
832.6 Procedures for reimbursing CAP.
832.7 Accounting procedures for reimbursement funding.
832.8 Cost estimates for CAP reimbursement.
832.9 Training and evaluation of CAP members.

Subpart B—Cadet Program

832.10 Cadet program.
832.11 Eligibility requirements.
832.12 Recognition of achievement.
832.13 Encampments and conferences.
832.14 Cadet special activities and programs.
832.15 Orientation visits.
832.16 Air Force support.

Subpart C—Function and Organization

832.20 Background information.
832.21 Purpose of CAP.
832.22 Membership categories.
832.23 Military status.
832.24 Uniform and grade structure of CAP, senior and cadet.
832.25 Organization.
832.26 CAP-governing body.
832.27 Air Force liaison function.
832.28 Air Force policy.
832.29 Communications between Air Force commanders and Air Force liaison personnel

Subpart D—Support for Civil Air Patrol

Sec.
832.40 Background information.
832.41 Legal authority.
832.42 Air Force liaison function.
832.43 Limitations on CAP support.
832.44 Screening and acquiring DOD property.
832.45 Accounting and disposing of DOD property.
832.46 CAP use of Air Force services and facilities.

Subpart A—Employment of Civil Air Patrol

AUTHORITY: 10 U.S.C. 8012, 9441.

SOURCE: 43 FR 51764, Nov. 7, 1978, unless otherwise noted.

NOTE: This subpart is derived from Air Force Regulation 46-5, July 10, 1978.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 832.1 Purpose.

This subpart explains the use of Civil Air Patrol (CAP) services employed on Air Force noncombat missions. It applies to Air Force activities only and does not dictate or limit the private activities of CAP.

§ 832.2 Use of CAP services by the Air Force.

Use of CAP services to support Air Force noncombat missions is provided for by law. CAP participates in these missions on a voluntary basis; therefore, the use of CAP services must be formally requested by a specific Air Force agency.

§ 832.3 CAP mission employment by the Air Force.

CAP members and their available equipment can perform light aircraft operations and provide mobile ground team support and local or long range radio communications from a mobile or stationary site. CAP resources are primarily used on these types of missions:

(a) *Search and rescue.* CAP voluntarily supports the National Search and Rescue Plan. The Aerospace Rescue and Recovery Service (ARRS), Air Force Commanders in Alaska and Hawaii and the Commander, CAP-USAF may request the assistance of CAP for search and rescue missions. These agencies authorize, coordinate, and assist CAP in the conduct of such missions.

(b) *Disaster relief.* CAP resources may be used to assist in the relief of disasters that occur in the United States and Puerto Rico. CAP services are requested and coordinated by one of the numbered Air Force headquarters within the Air Force Reserve.

(c) *Civil defense.* CAP resources will be used in the event of a Civil Defense Emergency. Tasks are assigned by Civil Defense agencies to CAP under the guidelines in Civil Defense Emergency plans. Examples of these tasks are:

(1) Air radiological monitoring,

(2) Air surveillance and reconnaissance,

(3) Light air transport,

(4) Courier service, and

(5) Radio communications.

(d) *Test missions.* The ability of CAP to perform search and rescue, disaster relief, or civil defense tasks is evaluated through test missions. These missions are requested by the Commander, CAP-USAF, and conducted by Air Force liaison members assigned to CAP.

(e) *Other missions for CAP.* An Air Force commander who may need CAP services for other than search and rescue, disaster relief, or civil defense activities must coordinate the use of CAP services through HQ CAP-USAF/DO before any mission activity by CAP members. This is to insure that the requesting major command (MAJCOM) is fully aware of the policies, procedures, and limitations that apply to CAP when performing Air Force missions.

(f) *Basic requirements for CAP missions.* An Air Force agency that authorizes the use of CAP services on any Air Force mission must provide at least this information:

(1) Written authority for the specific mission,

(2) Scope of CAP activity,

(3) Assignment of mission number or designator,

(4) Date and time of start and mission length,

(5) Air Force point of contact for CAP mission coordinator,

(6) CAP wings involved, and

(7) Release of information to news media.

[43 FR 51764, Nov. 7, 1978; 43 FR 59486, Dec. 21, 1978]

§ 832.4 Use of Air Force funds.

(a) Air Force appropriated funds are authorized only to furnish or reimburse CAP for:

(1) Aviation and automotive fuel and lubricants used to perform an Air Force authorized mission.

(2) Communications expenses used to alert or control CAP resources involved with an authorized mission.

(b) Air Force appropriated funds are not authorized to:

(1) Reimburse CAP for depreciation of privately owned equipment.

(2) Set up indemnity provisions for damage to equipment, or for personal injury or death of CAP members as a result of participation on an Air Force mission.

(3) Set up indemnity claims for equipment or facilities used by CAP or its members that are obtained from private owners by loan, lease, contract, or otherwise.

(4) Pay for personal services or expenses of CAP members engaged in Air Force missions, except as identified in this subpart.

§ 832.5 CAP accidents or incidents.

A CAP accident or incident that occurs on an authorized Air Force mission and that results in damage to or loss of property, or personal injury or death, is reported to the Air Force liaison officer for the CAP wing performing the mission. Part 842 of this chapter, Claims Manual, explains the CAP provisions in these situations.

§ 832.6 Procedures for reimbursing CAP.

CAP members who participate on an authorized Air Force mission are reimbursed for aviation and automotive fuel and lubricants as well as the cost of communications used on such missions. If CAP members are not able to purchase fuel or lubricants during a mission, a local vendor may be used to provide fuel and lubricants to CAP and receive reimbursement by the Air Force.

(a) CAP Form 108, reimbursement document, is used to identify all claims for reimbursement by CAP members or vendors. AFM 177-102, commercial transactions at base level, paragraph 20844, states the certifications needed on any CAP claim for reimbursement. The statement from the CAP wing commander is entered and signed after the last entry on the CAP Form 108.

(b) CAP members or vendors submit all reimbursement claims to the Air Force liaison office that serves the CAP wing participating on the mission. The liaison officer reviews all claims and fills out a standard form (SF) 1034, Public Voucher or Purchases and Services Other Than Personnel, as outlined in AFM 177-102, paragraph 20884.

(c) The liaison officer sends SF 1034 and supporting documents for search and rescue, disaster relief, or civil defense missions, as well as test exercises for these type of missions, to 375 AAW/ACFM, Scott AFB IL 62225 for payment. CAP reimbursement claims for other missions are forwarded to the accounting and finance office specified by the MAJCOM that requested and authorized the mission.

§ 832.7 Accounting procedures for reimbursement funding.

(a) The Military Airlift Command (MAC) is responsible for CAP reimbursement funding on search and rescue, disaster relief, or civil defense missions, as well as test exercises for these types of missions. The following procedures apply:

(1) *Search and rescue missions.* When the ARRS requests a CAP wing to perform a mission, ARRS provides a cost estimate to HQ MAC/ACB. This data includes: The CAP wing, mission number, mission purpose, and estimated cost by category of expense. When a mission is closed or suspended, a letter of authorization for the mission is sent to the CAP wing commander, with copies to HQ MAC/ACB and 375 AAW/ACFM.

(2) *Disaster relief or civil defense missions.* When an Air Force Reserve

numbered Air Force headquarters authorizes a CAP mission, it uses the same procedures and data as for a search and rescue mission.

(3) *Test or exercise missions.* The Commander, CAP-USAF may task a CAP wing to perform an exercise or test mission to evaluate its ability to conduct an actual search and rescue, disaster relief, or civil defense mission. HQ CAP-USAF/DO requests funds to support these missions from HQ MAC/ACB, who provides the available funding by category of expense to HQ CAP-USAF/DO and 375 AAW/ACFM. HQ CAP-USAF, as the CAP mission manager, provides the same data as required for actual missions to HQ MAC/ACB and 375 AAW/ACFM.

(b) The Air Force liaison officer enters the proper accounting classifications on the SF 1034. The account classification for MAC-reimbursed mission is:

57(FY)3400—30(FY)6591—(RC/CC)—09(EEIC)S525300.

(1) Fiscal Year (FY)—use eight for fiscal year 1978, nine for fiscal year 1979, etc.

(2) Responsibility Center/Cost Center code (RC/CC).

RC/CC and Description

100901 Actual Search and Rescue missions.
190902 Actual Disaster Relief or Civil Defense Missions.
190903 Search and Rescue or Disaster Relief or Civil Defense test missions.

(3) Element of Expense Investment Code (EEIC).

EEIC and Description

49510 Official toll calls.
601 Aviation fuel and lubricants.
612 Automotive fuel and lubricants.

(c) Other MAJCOMS which use CAP services for noncombat missions must insure enough funds are available to reimburse CAP for fuel, lubricants, and communications costs used on these missions. The using MAJCOM must also provide an account classification to HQ CAP-USAF/DO for liaison officers to complete an SF 1034 for the mission.

§ 832.8 Cost estimates for CAP reimbursement.

HQ CAP-USAF submits these estimates annually to HQ MAC/ACB soon enough for them to be included in the MAC budget request. The estimates identify the number of actual and test missions, their purpose, and projected cost by expense category.

§ 832.9 Training and evaluation of CAP members.

(a) Training for CAP members is the responsibility of CAP commanders and supervisors; however, the Commander, CAP-USAF, through the liaison program for CAF, may give training assistance to CAP members or coordinate training assistance from other Air Force organizations.

(b) The Commander, CAP-USAF, may authorize test missions or exercises as needed to evaluate the ability of the CAP to perform Air Force-requested missions

Subpart B—Cadet Program

AUTHORITY: Sec. 8012, 9441, 70A Stat. 488, 572; 10 U.S.C. 8012, 9441.

SOURCE: 41 FR 34951, Aug. 18, 1976, unless otherwise noted.

§ 832.10 Cadet program.

The CAP is responsible for providing aerospace education and training to its cadet members. The cadet program is designed to give each cadet:

(a) An aerospace education, including:

(1) The social, political, economic, scientific, vocational, educational, and international facets of aerospace.

(2) An introduction to a variety of aerospace matters (such as meteorology, theory of flight, navigation, aircraft power plants, rockets, and missiles) as necessary to develop an informed and aerospace-minded citizenry.

(b) Training in citizenship, character development, leadership, customs and courtesies of the Service, and exercise of command through self-government in the cadet organization.

§ 832.11 Eligibility requirements.

Any boy or girl 13 years of age (or enrolled in the seventh grade) through 17 years of age, who meets such prerequisites as the CAP corporation may from time to time establish, is eligible for cadet membership. Cadets may retain their cadet status until age 21. Eligibility for special activities or training may vary according to the type of activity or training being conducted.

§ 832.12 Recognition of achievement.

(a) Under the provisions of Part 888, this chapter, any cadet who successfully completes all the requirements and is awarded the CAP General Billy Mitchell Award can enlist in the Air Force, Air Force Reserve, or Air National Guard as an airman, pay grade E–2, provided he meets all other Air Force requirements.

(b) A cadet who receives the CAP General Mitchell Award or higher achievements can be afforded training credit when applying for enlistment in the ROTC program as provided for in Part 870 [1] of this chapter.

§ 832.13 Encampments and conferences.

(a) Type A encampments are conducted under supervision of CAP personnel with Air Force advice, assistance, and cooperation. They are conducted annually at selected Air Force bases and do not last more than 14 days. They enable cadets to live in the environment of an active Air Force installation; to acquire firsthand knowledge of Air Force activities; and to learn of career opportunities in the Air Force.

(1) The encampment commander (a CAP officer) prescribes the uniforms the CAP members wear during the encampment. He is responsible for the conduct of CAP personnel, and or compliance with the directives issued by the commander of the host base.

(2) The National Commander, CAP, establishes the encampment attendance quota for each CAP wing.

(b) Type B encampments are conducted under the same type of supervision as Type A encampments, and their staff composition is the same. However, these encampments are conducted at community, state, or Federal facilities (including other Department of Defense Installations). They are scheduled for a series of weekends, or during a continuous encampment period. The program may include training in emergency services, moral leadership, general leadership, and briefings at nearby aerospace facilities.

(c) CAP regional conferences are held annually in each of the eight CAP regions, at a location within each region. These conferences are conducted to assess progress during the current year, to establish goals for the coming year, and to present briefings by Air Force representatives on programs or activities which relate to CAP's role as an auxiliary of the Air Force. Selected cadets participate in these conferences to advise on the cadet program, and to gain further understanding of the overall CAP program in preparation for leadership positions within their unit or wing.

§ 832.14 Cadet special activities and programs.

(a) *International Air Cadet Exchange.* Originated in 1948, this annual exchange fosters international understanding, goodwill, and friendship among the youth of the participating countries through a common interest in aerospace. The CAP exchanges cadets with similar organizations in Canada, Central and South America, Europe, and the Middle and Far East.

(b) *Cadet Officer's School.* This school is designed to increase the effectiveness of cadet officers. The curriculum includes psychology of leadership, problem-solving techniques, public speaking, physical fitness, and orientation trips. Instruction is divided between seminars, lectures, and field exercises.

(c) *Air Force Academy Survival Course.* This course is planned and conducted by Air Force personnel at the Air Force Academy. Its purpose is to acquaint the cadets with techniques and methods of survival.

[1] Part 870 was removed at 47 FR 13521, Mar. 31, 1982.

(d) *Communications and Electronics Course.* This course is designed for outstanding cadets who have demonstrated an interest in the field of electronics. The course is planned and conducted by Air Force personnel at selected Air Force bases. The curriculum includes communications principles, radio operating training, tours, and practical laboratory exercises.

(e) *Federal Aviation Administration (FAA) Cadet Orientation Program.* This program is conducted at the FAA Academy. The course is designed to acquaint cadets with the history and organization of FAA, and to develop an understanding of FAA functions and responsibilities.

(f) *Space Flight Orientation Course.* This course is held annually at an outer-space-oriented facility. It is designed to further the aerospace education of cadets, and to motivate them toward careers in aerospace and allied sciences. The course includes history, philosophy, and objectives of space guidance, navigation instrumentation, and communication and system engineering.

(g) *Air Training Command (ATC) Familiarization Course.* This familiarization program for cadets is conducted at selected ATC undergraduate pilot and navigator training bases. It is designed to stimulate interest in an Air Force career. Each cadet receives training in the flight simulator, attends physiological training, and is briefed on the overall operation of the Air Force pilot training program.

(h) *Air Force Logistics Command (AFLC) Orientation Course.* This course is held annually at an AFLC Air Logistics Center. It is designed to further the aerospace education of cadets through an understanding of the Air Force logistics system. The curriculum may include acquisition, storage, distribution, maintenance repair and modification, data processing support, instrumentation, communications, and practical application of the logistics system.

(i) *Medical Services Orientation Program.* This program is planned and supervised by Air Force medical personnel, and is designed to acquaint cadets with the various fields of medical services available in the Air Force and civilian life.

(j) *Cadet Competitions.* Regional and national competitions, including drill and other aerospace-oriented competitive events, may be held annually at selected Air Force installations. Each region selects a team as its representative at the national competition.

(1) The National Commander, CAP, designates the location at which the national competition will be conducted.

(2) Air Force commanders provide suitable facilities and competent judges, if available, when requested by the Commander, CAP-USAF.

(k) *Chaplain Sponsored Conferences.* These annual conferences, (Christian Encounter Conferences) sponsored by the USAF Chief of Chaplains, are designed to stimulate the moral and spiritual development of the CAP cadet. Personnel and career counseling and spiritual guidance are provided by prominent clergymen, laymen, and national leaders who discuss problems of youth, marriage, home life, and other topics of interest. Cadets also participate in a well-rounded program of social and recreational activities.

(l) *Cadet Flying Programs.* The CAP corporation provides funding annually to help defray costs for cadet flight training and flight orientation programs. Flight training may be to solo level in glider or powered aircraft. Orientation flights are to motivate cadets through exposure to flying operations.

§ 832.15 Orientation visits.

Selected groups of cadets may participate in orientation visits to enhance or supplement the cadet training program. Examples are visits to Air Force installations, the Air Force Academy, the Air Force Museum, and FAA Air Traffic Control facilities. These visits are intended to serve as motivational activities, as well as to provide educational exposure to supplement academic instruction within the cadet training program.

§ 832.16 Air Force support.

The authority for Air Force support to CAP is outlined in AFR 46-4, Civil Air Patrol, Auxiliary of the Air Force.

The Air Force is authorized to provide services and facilities to the CAP which include, but are not limited to; available billeting, messing, emergency medical care, limited exchange privileges, and transportation. DOD and Air Force directives provide guidance as to the scope of such services and facilities that are authorized for CAP. Air Force installation commanders should contact the appropriate USAF-CAP wing or region liaison officer for assistance on CAP programs or activities conducted on their installation.

Subpart C—Function and Organization

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012; 10 U.S.C. 9441; 5 U.S.C. 8150.

SOURCE: 41 FR 46599, Oct. 22, 1976, unless otherwise noted.

§ 832.20 Background information.

CAP was formed in December 1941 under the office of Civilian Defense to enlist and train civilian volunteers to aid in the national defense. In May 1943, CAP was transferred to the War Department for the remainder of World War II. CAP civilian volunteers, using light aircraft, flew numerous support and emergency missions throughout the war. In recognition of its wartime contributions and in realization of its future potential, CAP was established as a nonprofit, civilian corporation in 1946 (Pub. L. 79-476: 36 U.S.C. 201, et seq.). Two years later it was made an auxiliary of the Air Force (Pub. L. 80-557: 10 U.S.C. 9441).

§ 832.21 Purpose of CAP.

(a) Congress stipulated that the purposes of CAP are:

(1) To provide an organization to encourage and aid American citizens in the contribution of their efforts, services and resources in the development of aviation and in the maintenance of air supremacy, and to encourage and develop by example, the voluntary contribution of private citizens to the public welfare;

(2) To provide aviation education and training especially to its senior and cadet members; to encourage and foster civil aviation in local communities and to provide an organization of private citizens with adequate facilities to assist in meeting local and national emergencies.

(b) To accomplish the purposes for which it was chartered, CAP:

(1) Conducts a continuous nationwide internal and external program of aerospace education, including the coordination of workshops conducted at colleges and universities.

(2) Conducts a comprehensive cadet program, including an International Air Cadet Exchange, special activities, and supervision of encampments at Air Force installations as described in Subpart B of this part.

(3) Maintains an emergency service capability to meet the requests of the Air Force for search and rescue, disaster relief, and other noncombat missions as described in Subpart A of this Part.

(4) Conducts a comprehensive Senior Training Program to provide qualified personnel at all levels of CAP.

(5) Assists local, state, and other Federal agencies in emergency operations or activities.

(6) Conducts a flight management program for assigned aircrew members and a maintenance management program for corporate possessed aircraft.

(7) Maintains a nationwide communications capability to support emergency services operations and to conduct official CAP business.

(8) Assists the Air Force recruiting program.

§ 832.22 Membership categories.

CAP members are private citizens who volunteer without compensation, their time, services, and resources to accomplish CAP objectives and purposes. There are several categories of CAP membership; however, the majority of the members fall into one of the following:

(a) *Cadets.* Boys and girls 13 years of age (or having satisfactorily completed the sixth grade) through 17 years of age who meet such prerequisites as the CAP corporation may establish from time to time. Cadet status may be retained until age 21.

(b) *Seniors.* Adults 18 years of age (there is no maximum age) who meet

such prerequisites as the CAP corporation may establish from time to time.

§ 832.23 Military status.

CAP is not a military service, CAP members are not entitled to armed service veterans' benefits. Neither CAP membership nor grade confer upon the individual any of the rights, privileges or prerogatives, or benefits of military personnel, active, reserve or retired.

§ 832.24 Uniform and grade structure of CAP, senior and cadet.

Members wear a uniform and employ a grade structure similar to that of the Air Force; however, distinctive emblems, buttons, insignia and badges are employed to clearly identify the wearer as a member of CAP. Any changes to the currently approved uniforms, badges, insignia, or grade structure, must be approved by HQ USAF/DP before being tested or implemented by CAP.

§ 832.25 Organization.

The organizational structure of CAP is similar to that of the Air Force:

(a) *National Headquarters.* CAP National Headquarters is located at Maxwell AFB, Alabama.

(b) *Regions.* The United States is geographically divided into eight CAP regions. The composite boundaries of the eight regions include all of the 52 wings of CAP. Each region is supervised by a regional commander.

(c) *Wings.* Each of the eight regions is subdivided into wings, one for each of the 50 states, the District of Columbia and the Commonwealth of Puerto Rico. Each wing is supervised by a wing commander.

(d) *Groups.* If the geographical composition of its area and the number of its members so warrant, each wing may be subdivided into groups.

(e) *Squadrons.* Each wing, or each group, if a wing is subdivided into groups, is subdivided into squadrons.

(f) *Flights.* A unit is designated as a flight if the membership is insufficient to constitute a squadron.

§ 832.26 CAP governing body.

(a) *National Board.* CAP is governed by a National Board. The National Board consists of the National Commander who is the principal corporate officer, the National Vice Commander, Executive Director, National Finance Officer, National Legal Officer, all regional commanders, and all wing commanders. The Board meets annually to set corporate policy. When the Board is not in session, the National Executive Committee determines corporate policy.

(b) *National Executive Committee.* The National Executive Committee consists of the same members as the National Board, except that the Wing Commanders are not included. The committee meets quarterly, or as directed by the National Commander.

(c) *National Commander.* The National Commander is elected by the National Board and in addition to serving as Chairman of the National Board and NEC, functions as commander of CAP.

(d) *Executive Director.* The Executive Director generally administers the day-to-day activities of CAP. The Commander of the Air Force liaison function (CAP-USAF) assigned to CAP, serves as the Executive Director under authority provided in the corporate bylaws.

(1) As the Executive Director, this officer acts in his private capacity and not as an officer of the United States.

(2) In his military capacity, he commands all Air Force personnel assigned to duty with CAP.

§ 832.27 Air Force liaison function.

Air Force personnel are assigned to liaison duty at the national, regional, and state (wing) levels of CAP. The liaison function is assigned under the major command responsibility of Air University.

(a) *CAP-USAF.* The headquarters of the liaison function is designated CAP-USAF. It is collocated with National Headquarters, CAP on Maxwell AFB, Alabama and the Commander is the senior Air Force officer assigned to liaison duty with CAP.

(b) *Liaison Offices.* Liaison offices at the region and wing levels are designated USAF-CAP-RLO and USAF-CAP-LO respectively.

(1) The purpose of the liaison function is;

(i) To advise and assist CAP in the fulfillment of its statutory objectives.

(ii) To provide liaison between CAP, the Air Force and other Department of Defense departments or agencies.

§ 832.28 Air Force policy.

(a) Air Force policy regarding CAP is derived from 10 U.S.C. 9441, which defines the status, support and employment of CAP with respect to the Air Force. The objectives and purposes of CAP are essential to the Air Force and the public welfare, and are to receive the maximum support possible, consistent with law and Air Force capability.

(b) Commanders of Air Force organizations and installations should be fully aware of the CAP program and the support that may be made available for the activities of this program. Personnel at all levels of the Air Force should be familiar with the purposes of CAP and its relationship to the Air Force. In this regard, Air Force Liaison personnel assigned to duty with CAP should be contacted for information and assistance relative to CAP activities and the support authorized for these activities. To assist liaison personnel, a field grade officer should be designated at each Air Force installation to effect coordination of CAP activities. The name, rank, office symbol and telephone number of the designee will be provided to CAP-USAF/CV, Maxwell AFB, Alabama 36112.

(c) Commanders should establish contact with nearby CAP units as a matter of further communication and understanding of CAP activities as well as providing authorized support and assistance for their program. CAP provides an effective medium for contact with the public. Commanders may coordinate public affairs activities with nearby CAP units and will inform the public about CAP and its relationship to the Air Force.

§ 832.29 Communications between Air Force commanders and Air Force liaison personnel.

Communication between Air Force commanders and liaison personnel is authorized and encouraged on a direct basis, to coordinate matters relating to the function of the CAP.

Subpart D—Support for Civil Air Patrol

AUTHORITY: 10 U.S.C. 9441.

SOURCE: 43 FR 51765, Nov. 7, 1978, unless otherwise noted.

NOTE: This subpart is derived from Air Force Regulation 46-6, April 26, 1978.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 832.40 Background information.

This subpart tells how support is set up for the Civil Air Patrol (CAP). It applies to Air Force activities only.

§ 832.41 Legal authority.

Support for CAP is provided for by law, 10 U.S.C. 9441. This law allows the Air Force to assign members to CAP for liaison and training duty; makes CAP eligible to receive DOD excess personal property, and allows CAP to use Air Force services and facilities.

§ 832.42 Air Force liaison function.

The Air Force assigns both active and reserve military members as well as civilians to liaison duty with CAP. Subpart C of this part sets up the organization and responsibilities of the active duty liaison program, and Air Force Regulation 45-10 describes the Reserve Assistance program for CAP.

§ 832.43 Limitations on CAP support.

(a) *Acquiring DOD property for CAP.* DOD property turned over to CAP becomes CAP property. CAP is required to maintain an account of all property it receives from the DOD and obtains CAP-USAF approval prior to disposing of any DOD item.

(b) *Loaning property to CAP.* Headquarters, U.S. Air Force Reserve, through CAP-USAF, sets up the loan of Air Force property to CAP.

(c) *Obligating Government funds.* Air Force commanders must not use

appropriated funds for CAP except as set out in this subpart, or other 46 series Air Force regulations.

(d) *Using AF Form 15, USAF invoice.* Air Force liaison officers may use AF Form 15 to obtain fuel or lubricants for approved CAP missions.

(e) *Misusing property.* Should CAP misuse DOD property it receives, or misuse the funds it obtains from an approved sale of such property, the offending CAP unit may be suspended from receiving DOD items.

§ 832.44 Screening and acquiring DOD property.

(a) *Defense Property Disposal Service (DPDS).* DOD personal property no longer needed by a Military Service/Defense Agency is transferred to a Defense Property Disposal Office (DPDO). The DPDO makes sure property turned over to them is made available to meet the needs of all DOD agencies. Once these needs are met, property items are made available to fill the needs of CAP before being offered to Federal civil agencies or donee activities. The DPDS uses two ways to dispose of property:

(1) *Reportable property.* Based on the condition and value of available property, the DPDS publishes declared excess personal property lists. These lists are put together at a central control point for distribution.

(i) Declared excess personal property lists are sent to CAP-USAF and to their regional liaison offices by DPDS. CAP-USAF or the region liaison offices sends a request for changes to the distribution of these lists to DPDS-U, Battle Creek, MI 49016.

(ii) Liaison personnel review property listings to find out what items of property are suitable for CAP. CAP-USAF or the region liaison office sends these requirements to DPDS. When property becomes available for transfer, DPDS tells CAP-USAF or the region liaison office.

(iii) CAP-USAF or the region liaison office sends a Department of Defense Form 1149, Requisition and Invoice/Shipping Document, to the activity which reported the property to pick up the items needed.

(2) *Nonreportable property.* Property not offered in writing is made available for screening at the local DPDO.

(i) Nonreportable property is kept for screening at a disposal facility for 21 calendar days.

(ii) The region liaison office verifies CAP requirements for nonreportable property.

(b) *General Services Administration (GSA).* The regional offices publish lists of property available for disposal within their regional area. These catalogs or bulletins list property from both DOD and Federal civil agencies. These publications tell when the property is available, where it is located, and what the condition of the property is.

(1) *Distributing GSA catalogs/bulletins.* GSA sends their catalogs or bulletins to CAP-USAF or region liaison offices. Any request for change to these publications is forwarded to a GSA regional office.

(2) *Reviewing GSA catalogs or bulletins.* Liaison officers review GSA catalogs or bulletins only for DOD property suitable for CAP. These publications set out DOD items by the location reporting the property.

(3) *Procedure for acquiring property from GSA.* GSA catalogs or bulletins identify the procedures to follow for picking up property items.

(c) *Limitations on property items.* (1) DOD personal property items are acquired to support CAP programs and activities recognized by the Air Force within these limits:

(i) Obtaining DOD property for the purpose of sale is prohibited.

(ii) Property obtained for CAP is to be in usable condition or need only minimum repair.

(iii) DOD property may be acquired for spare parts provided it is used for that purpose only and not as an item by itself.

(2) The Commander, CAP-USAF may delegate authority to liaison region commanders to acquire DOD property for CAP. This does not include aircraft. CAP-USAF screens and acquires excess DOD aircraft for CAP.

(d) *Handling and transportation costs.* (1) The Air Force pays for moving property acquired for CAP to a location approved by CAP-USAF.

Property sent from Air Force installations uses funds from that facility.

(2) AFLC pays the handling and transportation costs for property from other military installations.

(3) DOD property acquired for CAP is authorized to be shipped in the Defense transportation system to a location approved by the Commander, CAP-USAF. Property is shipped at the same rates as other military cargoes.

§ 832.45 Accounting and disposing of DOD property.

(a) CAP maintains an account of all property received from the DOD. These basic rules apply:

(1) CAP must maintain an account of all items it receives so that an audit identifies where the item came from, where it is being used in CAP, or tells when and how it was disposed of.

(2) A written release from CAP-USAF is needed for CAP to dispose of any former DOD property. The funds that are received from an authorized sale of such property items are sent to the National Headquarters, CAP, to be used for support of approved CAP programs. CAP-USAF is told when the items are disposed and the amount of funds from any sale.

(3) The Commander, CAP-USAF, must approve any former DOD aircraft that CAP wants to dispose of. He may approve the trade of these aircraft for commercial aircraft that cost less to operate and maintain. The commercial aircraft received in trade are accounted for and disposed of in the same manner as aircraft received directly from the DOD.

(b) CAP-USAF establishes the procedures for control of any Air Force property that is loaned to CAP.

(c) An annual audit of each CAP region and wing supply account is made to determine if DOD property is being properly managed.

§ 832.46 CAP use of Air Force services and facilities.

(a) *Air Force policy.* (1) CAP may use Air Force services or facilities that are needed to assist CAP-approved programs. However, use of any service or facility is not to interfere with the mission assigned to an Air Force unit or installation.

(2) A request to use any service or facility of the Air Force by CAP members is sent to the appropriate Air Force liaision office.

(b) *Maintenance support.* (1) CAP equipment requiring maintenance that a CAP unit cannot perform, may be done at an Air Force facility. Payment for this service is not required; however, the parts, supplies, or instructions needed to complete the work are to be provided by CAP.

(2) Organizational maintenance is done by the CAP unit.

(3) Field maintenance that a CAP unit cannot do may be done by the nearest Air Force facility.

(4) Depot maintenance may be done at an Air Force facility serving the geographical area of the CAP unit needing this type of assistance.

(c) *Using real property.* CAP uses Air Force real property under the guidelines in the 87-series Air Force regulations on real property management.

(d) *Air Force mission support.* CAP resources may be used on Air Force noncombat missions. The Air Force reimburses CAP for the fuel, lubricants, and communications expenses used on these missions. The procedures used for reimbursing CAP are provided in Subpart A of this part.

(e) *Other services.* There are other Air Force services which CAP may use. These services are identified in Air Force regulations and include emergency medical treatment (168 series), temporary billeting (30 series), transportation (DOD 4515.13R) and limited exchange privileges (147 series). In addition to reviewing the regulation that applies to a service being provided to CAP, an Air Force unit or installation member should contact the nearest Air Force liaison office for CAP to get further assistance.

PART 834—SELECTING ARCHITECT-ENGINEERS FOR PROFESSIONAL SERVICES BY NEGOTIATED CONTRACTS

Sec.

834.1 Purpose.
834.2 Definitions.
834.3 Policies.
834.4 Contract provisions and limitations.

90-112 O—82——15

Sec.
834.5 The architect-engineer progress report.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: 36 FR 5847, Mar. 30, 1971, unless otherwise noted.

§ 834.1 Purpose.

This part states the policies and procedures for selecting architectural and engineering firms and for negotiating contracts for their professional services.

§ 834.2 Definitions.

(a) *Architect-engineer.* A firm (individual, partnership, association, corporation, or joint-venture) performing architectural or engineering services, or both, under the personal direction and responsibility of an individual or individuals legally qualified to engage in the professional practice of architecture or engineering.

(b) *Professional architect-engineering services.* Those operations, service, and materials furnished by architects or engineers, as defined in paragraph (a) of this section, for developing designs, plans, drawings, specifications, and other documents essential to facilities repair, alteration, or construction for the Air Force. These services also include, but are not limited to: (1) Making technical studies analyses, surveys, investigations, and reports; (2) master planning of site developments and installations; (3) preparing technical operating/maintenance manuals; (4) supervising and inspecting repair, alteration, or construction projects; and (5) performing the necessary supervision and coordination of all phases of such architectural-engineering work.

(c) *Fee.* The compensation for professional services furnished.

(d) *Civil engineer.* The responsible Air Force civil engineering official at any echelon of command.

§ 834.3 Policies.

(a) In-service architectural and engineering capabilities will be used to the maximum feasible extent in providing the technical services required to accomplish Air Force projects and programs.

(b) The Secretary of the Air Force may authorize the procurement of the professional services of architect-engineers under a negotiated contract if he finds that in-service capability is inadequate to provide the needed architectural and engineering services and determines that procurement of such services by contract will be in the interest of national defense.

(c) The use of architect-engineer services for any repair, alteration, or construction project must be approved by the commander of the echelon of command having authority to approve the project concerned. Before approval, the commander must fully determine that in-service capability is not available to accomplish the services required.

(d) Preselection and selection boards, formally constituted and composed of members nominated by the responsible civil engineer and appointed by special orders, will select architect-engineers for each proposed architect-engineer contract.

(e) Architect-engineer selections will be based solely upon comparative evaluations of the professional and technical qualifications considered essential for satisfactory performance of the work and services required. Competitive bidding or comparable procedures will not be used.

(f) Fixed-price (lump sum) contracts will be negotiated. Each contract will be based upon a complete well defined Statement of Work which clearly describes the project, the objectives to be accomplished, and the scope and nature of the work, services, and material to be furnished. If the nature of the project involved does not permit development of a definite Statement of Work, a cost-plus-a-fixed-fee type of contract may be negotiated, provided the Secretary of the Air Force specifically authorizes that type of procurement of architect-engineer services for the particular project involved.

(g) Architect-engineer fees will be negotiated in accordance with the criteria and guidance outlined in AFR 70-22 (Procedure for Negotiation of Architect-Engineer Contracts).

§ 834.4 Contract provisions and limitations.

The following provisions and limitations apply to professional architect-engineer contracts:

(a) *Statutory limitation on the fee.* The total amount that may be paid to an architect-engineer for producing and delivering the designs, plans, drawings, and specifications for a public work or utility project is limited by statute (10 U.S.C. 9540) to 6 percent of the predetermined estimated construction cost of the particular project, or part of a project, to which the architect-engineer work applies. This limitation, applied to either a fixed-price or cost-plus-a-fixed-fee type contracts, is referred to as a 6 percent statutory fee limitation.

(1) Under a cost-plus-a-fixed-fee type of contract, the 6 percent limitation applies to the total, consisting of the costs incurred by the architect-engineer in producing and delivering the above documents, plus his fixed fee (10 U.S.C. 2306(d)).

(2) The predetermined estimated construction cost of a project is an estimate of those costs expected to be incurred in connection with actual construction, repair, or alteration. That estimated cost does not include any amount to be paid to the architect-engineer. The above 6 percent of the predetermined estimated construction cost represents the maximum amount that may be paid for the services outlined.

(3) The contracting officer will determine that the negotiated fee is fair and reasonable for these services and for other services discussed in this section, that are not subject to the 6 percent limitation. In determining appropriate fees, follow the guidance in AFR 70-22.

(b) *Application.* The 6 percent statutory fee limitation applies to all services normally furnished by an architect-engineer in the actual preparation of the material outlined. This includes the visual inspections of the site of (or facility comprising) the proposed project, for familiarization with its scope, the general conditions governing the performance of his work, the conditions under which the project will be constructed, and the coordination with using elements, to develop functional relationships and special detailed requirements.

(1) This limitation, however, does not apply to the cost of making other field investigations and surveys, such as topographical surveys, soil borings, soil, chemical, mechanical, and similar fact-finding surveys and investigations that are essential to proper design.

(2) Similarly, the 6 percent fee limitation does not apply to services furnished for the supervision and inspection of construction; master planning; making technical studies, investigations, and reports; preparing technical operating or maintenance manuals; and similar services not involving the production of designs, plans, drawings, and specifications for specific projects.

(c) *Contract provisions.* When the "Statement of Work" contemplates furnishing services subject to the 6 percent limitation and services not subject to that limitation, the fee negotiated for each class of service will be separately stated in the contract.

(d) *Family housing.* Architect-engineer fees for family housing projects authorized for construction under the U.S. Housing Act of 1937, as amended (Capehart or Title VIII family housing projects), will not exceed those fees legally permissible under schedules allowed and established from time to time by the Public Housing Administration.

(e) *Revising a contract.* Change orders and supplemental agreements to existing architect-engineer contracts may be authorized subject to the following limitations:

(1) The cost of changes may not exceed the approved funding limitations for specific projects or programs.

(2) Architect-engineer fees incident to changes are subject to the fee limitations outlined in paragraphs (a), (b), and (d) of this section.

(3) Contract modifications which increase the scope or change the character of the work or services required by the original contract must be approved by the Secretary of the Air Force or his designated representative, as outlined in the Findings and Determination which authorized the original contract and will not be binding until so approved.

(f) *Personal services.* This part does not authorize, under any circumstance, the negotiation or award of any contract exclusively for personal services, such as:

(1) Day labor, management, office, or stenographic personnel; or

(2) Expert, consultant, or inspection services other than for nonprofessional architect-engineer services as explained in § 834.2.

§ 834.5 The architect-engineer progress report.

(a) Each architect-engineer contract of 6 months' duration or longer will contain a provision requiring the architect-engineer to submit to the contracting officer, by the 10th day of each month, a report of the work done on the contract during the preceding month.

(1) This provision may be inserted in a contract of less than 6 months' duration when special circumstances make inclusion desirable.

(2) One copy of the report will be forwarded to the major command concerned.

(3) This reporting requirement has been exempted by the Bureau of the Budget from clearance under the Federal Reports Act of 1942.

(b) Performance Evaluation, Architect-Engineer Professional Services Contractor, DD Form 1413, RCS: DD-I&L (AF) 559.

(1) The performance of each architect-engineer will be monitored closely and evaluated by the civil engineer monitoring the contract. The following factors will be used as guidelines in evaluating this performance:

(i) Cooperation of the principals and employees.

(ii) Adequacy and active participation of top management.

(iii) Quality and adequacy of the work produced.

(iv) Suitability of the end product for the intended purpose.

(v) Ability to meet established schedules.

(vi) Overall performance.

PART 835—SUPPORT OF NONGOVERNMENTAL TEST AND EVALUATION

Sec.

835.1 Purpose.
835.2 Background information.
835.3 Exceptions.
835.4 Terms explained.
835.5 Policies and procedures.
835.6 Responsibilities.
835.7 Authority for direct communication.

AUTHORITY: 10 U.S.C. 8012.

SOURCE: 43 FR 22030, May 23, 1978, unless otherwise noted.

§ 835.1 Purpose.

This part states policy, authority, and limitations on procedures for providing Air Force support, services and facilities to nongovernmental organizations. These procedures give ways to test and evaluate products, techniques, and equipment. It applies to government-owned facilities and serves as a specific guide for carrying out portions of DOD Directive 3200.11 that apply.

§ 835.2 Background information.

The Air Force maintains and operates many kinds of unique facilities to meet its testing needs. These facilities can also accommodate many needs of the other Services and, in some cases, Government agencies outside the Department of Defense (DOD). Many of these facilities cannot be economically duplicated by other agencies (governmental or private). Frequently, businesses and institutions ask the Air Force to let them use its facilities to test and evaluate their products or techniques. DOD Directive 3200.11 gives procedures for using, managing, and operating major DOD ranges and test facilities designated collectively as the Major Range and Test Facility Base (MRTFB). The DOD directive covers both governmental and nongovernmental use. This part, however, adds to the DOD guidance that specifically pertains to nongovernmental use. It applies not only to the U.S. Air Force facilities in the MRTFB, but also to all other U.S. Air Force test facilities.

§ 835.3 Exceptions.

(a) This part does not apply to Government-owned and contractor-operated industrial facilities whose nongovernmental use is according to accountable contracts and pertinent regulations.

(b) AFP 400-7 Matrix Illustrating Reimbursement Policies for Interservice / Interdepartmental / Interagency Support, AFR 400-27, Basic Policies and Principles for Interservice, Interdepartmental, and Interagency Support, and DOD Directive 4000.19-M explain inter-Service support agreements and apply to Air Force test facilities.

(c) AFR 400-15, Logistic Support of United States Nongovernmental, Nonmilitary Agencies and Individuals in Oversea Military Commands, covers logistic support of military departments to U.S. nongovernment agencies or individuals in overseas military command areas.

(d) Section 13, Armed Services procurement regulations, governs the use of Government property by firms and institutions that perform Air Force contracts. Requests for test support in performing such contracts are not covered.

(e) The Arnold Engineering Development Center (AEDC) is exempted from the requirements of this part because it is authorized to provide industry with wind tunnel testing on a reimbursable basis.

§ 835.4 Terms explained.

(a) *Air Force test facility.* Any Air Force laboratory, range, or other facility intended for test and evaluation purposes. The facility may be operated by Service personnel or maintenance and operations contractors, or a combination of them.

(b) *Business.* A nongovernmental organization, other than an institution, desiring to test a product or technique that is not related to a government prime contract or subcontract.

(c) *Evaluation.* The review and analysis of qualitative or quantitative data from design review, hardware inspection, testing, or operational usage of equipment (AFR 80-14, Test and Evaluation).

(d) *Government sponsor.* A Federal executive agency whose directives or direct interest lead to a unique testing requirement.

(e) *Institution.* A nongovernmental organization, having an educational or scientific purpose, desiring to test a product or technique that is not related to a Government prime contract or subcontract.

(f) *Statement of support requirements.* A definitive statement prepared by an institution or business listing type, level, and how long support is required.

(g) *Support.* Services, supplies, equipment, and technical assistance provided to an institution or business.

(h) *Test.* Any program or procedure which is designed to obtain, verify, or provide data for the evaluation of: Research and development (other than laboratory experiments); progress in reaching development goals; or performance and operational capability of systems, subsystems, components, and equipment items (AFR 80-14).

(i) *Test support request (TSR).* A formal request for support sent by a Government sponsor that contains:

(1) A brief description of the mission or purpose of the requesting institution or business.

(2) A brief description of the nature of the test.

(3) A statement of support requirements.

(4) A "certificate of nonavailability" of suitable commercial facilities.

(5) A certification that the proposed test program is in the public interest.

(6) A statement that the business or institution has agreed not to use information regarding Air Force testing in connection with its advertising, and that such test support will not be interpreted as, nor constitute, an Air Force indorsement of that product.

§ 835.5 Policies and procedures.

(a) The Air Force may provide test support to businesses and institutions if such services are not reasonably available in private industry and can be supported without additional Service manning. In all cases, the items or techniques to be tested and evaluated must be in the public interest.

(b) Any business or institution desiring Air Force facilities and supporting services must seek as a sponsor a Federal executive agency. This agency must have regulations that require such testing or whose interests are directly aligned to the unique testing being proposed. The Government-agency sponsor must be responsible for filing with the Air Force the TSR in § 835.4(l).

(c) Except for the use of those facilities excluded from the uniform reimbursement policy (DODD 3200.11), the Air Force will be reimbursed for all costs (both direct and indirect) according to user-charge procedures of Part 812 of this chapter and other regulations that apply. The Air Force test facility comptroller bills the institution or business direct, NOT through the Government sponsor.

(d) The requesting institution or business must agree in all cases to indemnify the United States against all loss of, or damage to, Government property and injury to Government personnel, and to hold the United States harmless against all third-party claims unless willful misconduct of Air Force personnel is involved. AF Form 180, Hold Harmless Agreement, must be executed.

(e) Operations not within the scope of the stated purpose of such testing are prohibited. All tests must be accepted and approved on a noninterference basis and without rescheduling other planned Government activities. Any Government needs that arise during a test take precedence.

§ 835.6 Responsibilities.

(a) Major commands (MAJCOMs):

(1) Review TSRs sent by the Government sponsor.

(2) Transfer the TSR to another MAJCOM if the other command's test facilities are more appropriate.

(3) Disapprove and return TSRs that fall outside the scope of this part.

(4) Approve valid requests and direct proper action.

(5) Make sure that the Government sponsor has proved that Air Force test support is needed.

(6) Get an evaluation and recommendation from the Air Force test facility commander or a statement of whether the test can be accommodated and its probable impact on the facility's resources.

(b) Each Air Force test facility:

(1) Reviews TSRs sent by its MAJCOM headquarters.

(2) Estimates (according to Part 812 of this chapter) the cost of supporting the test, and explains cost factors involved.

(3) If the TSR involves aircraft, complies with Part 855 of this chapter.

(4) Estimates the resource impact on the Air Force test facility, if the test is accommodated.

(5) Within 30 calendar days after receiving the TSR, informs the MAJCOM headquarters as to the facility's capability to accommodate the test.

(6) Makes sure that all necessary safety measures are taken to prevent personal injury or property damage.

(7) Ensures compliance with security directives that apply.

(c) The Government sponsor:

(1) Sends a TSR in letter format containing the information in § 835.4(l), to the proper MAJCOM headquarters.

(2) Proves that the test is needed, and determines that such a test is indeed in the public interest.

(3) Verifies that test support services are not reasonably available in private industry.

§ 835.7 Authority for direct communication.

Direct communication is authorized between separate MAJCOM headquarters, between MAJCOM Headquarters and Government sponsors, and, after the TSR is received, between MAJCOM Headquarters and the requesting business or institution.

PART 836—RELEASE OF INFORMATION RELATING TO CRIMINAL PROCEEDINGS

Sec.

836.1 Purpose.
836.2 Policy governing release.
836.3 Responsibility for interpreting the policy.
836.4 Time periods involved.
836.5 Information that may be made public.

Sec.

836.6 Information that may not be made public.
836.7 Information that may be released under some circumstances.
836.8 Photographing or televising the accused.
836.9 Handling requests for policy waivers.
836.10 Standards of conduct for counsel involved in Air Force criminal proceedings.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: 31 FR 16143, Dec. 16, 1966, unless otherwise noted.

§ 836.1 Purpose.

This part states the policy on releasing information relating to criminal proceedings to news media; it includes certain restrictions imposed on such release; it further prescribes standards of conduct relating to the release of such information by attorneys participating in Air Force criminal proceedings.

[37 FR 17173, Aug. 25, 1972]

§ 836.2 Policy governing release.

The release of information for the purpose of influencing a trial is improper and is prohibited. However, there are valid reasons for making information available to the public about the administration of the Uniform Code of Military Justice. The objective is to achieve a fair balance between the protection of the rights of individuals accused of crime and the right of the public to be informed about the administration of justice.

§ 836.3 Responsibility for interpreting the policy.

When a request for information is directed to a command, the staff judge advocate has the initial responsibility for interpreting this part and applying its terms to the request. The actual release of information is a command responsibility, usually delegated to the Information Officer. Within the guidelines provided in this part, the staff judge advocate and the Information Officer must study the facts and implications of each case to provide intelligent advice to the commander. This part is not intended to replace good judgment and common sense.

§ 836.4 Time periods involved.

The principles given in this part apply to the release of information to news media from the time a person subject to the Uniform Code of Military Justice is apprehended, confined, or charged with a criminal offense until the proceeding has been terminated, by trial or otherwise.

§ 836.5 Information that may be made public.

Subject to any limitations imposed by law, regulation, security requirement, or rule or order of court, the following information may be made public in every case:

(a) The accused person's name, age, unit, assignment, marital status, length of service, and home town.

(b) The substance or the text of charges and specifications.

(c) Date and place of trial, or approximate date if it can be reasonably anticipated.

(d) Identity and qualifications of appointed counsel.

(e) Identities of investigating and apprehending agencies and length of investigation.

(f) Identities of convening and reviewing authorities if case has been referred for trial.

(g) Factual accounts of the status of the case from the time of apprehension or preferring of charges through the completion of appellate review.

§ 836.6 Information that may not be made public.

Subject to the exceptions described in § 836.9, the following information may not be made public in any case:

(a) Statements, admissions, or confessions attributable to the accused.

(b) Observations about the accused's character.

(c) References to investigative procedures, such as fingerprints, polygraph examinations, and ballistics, or laboratory tests.

(d) Statements concerning the identity, credibility, or testimony of prospective witnesses.

(e) Statements concerning evidence or theories regarding the guilt or innocence of accused persons, whether or

not it is anticipated that such evidence or theories will be used at trial.

(f) Description of items seized at apprehension.

(g) Facts regarding the accused person's disciplinary record, including nonjudicial punishment and prior court-martial convictions.

(h) Opinions regarding Air Force policy toward persons convicted or accused of offenses similar to those involved in a particular case.

§ 836.7 Information that may be released under some circumstances.

The following information will not be volunteered in material prepared for publication, but may be released upon specific inquiry, to the extent the staff judge advocate determines that the rights of the accused will not be injured thereby:

(a) The circumstances immediately surrounding an apprehension, including time and place, resistance, pursuit, and the accused's possession and use of weapons.

(b) The identities and backgrounds of court members and the military judge.

[31 FR 16143, Dec. 16, 1966, as amended at 37 FR 17173, Aug. 25, 1972]

§ 836.8 Photographing or televising the accused.

Representatives of the Air Force will not encourage or assist news media in photographing or televising an accused person being held or transported in custody. Unless the accused is a fugitive, or unless a law enforcement function will be served thereby, his photographs will not be made available.

§ 836.9 Handling requests for policy waivers.

The foregoing are generally applicable principles. There may be situations in which these proscriptions will limit release of information that would not be prejudicial in the particular circumstances. If the staff judge advocate believes it to be consistent with the fair administration of justice, he may refer such unusual requests, with his recommendations, to The Judge Advocate General for resolution.

§ 836.10 Standards of conduct for counsel involved in Air Force criminal proceedings.

(a) In every criminal proceeding in the Air Force, a proper balance must be maintained between the freedom of the press, which has been guaranteed to the public by the Bill of Rights, and the individual's right to a fair and impartial trial, free from the possibility of preconceived notions of guilt based upon information contained in newspapers and broadcast over the radio and television networks.

(b) To this end, the Air Force endorses and adopts the American Bar Association's standards for criminal justice relating to fair trial and free press as to pending or imminent criminal litigation. The following standards will be observed in all Air Force criminal proceedings:

(1) *General.* It is the duty of Air Force and civilian attorneys not to release or authorize the release of any information or opinions for dissemination by any means of public communication, in connection with pending or imminent criminal litigation with which they are associated, if there is a reasonable likelihood that such dissemination will interfere with a fair trial or otherwise prejudice the due administration of justice.

(2) *The prosecution function—public statements.* Trial counsel should not exploit his office by means of personal publicity connected with a case before trial, during trial or thereafter. He will comply with the American Bar Association standards on fair trial and free press.

(3) *The defense function—public statements.* Defense counsel, detailed or individual, should avoid personal publicity connected with a case before trial, during trial, or thereafter. He will comply with the American Bar Association standards on fair trial and free press.

(4) *Pretrial investigation.* With respect to an investigation under the provisions of article 32, Uniform Code of Military Justice, or any other pending investigation of any criminal matter, counsel participating in the investigation shall refrain from making any extra-judicial statement, for dis-

semination by any means of public communication that goes beyond the public record; or that is not necessary to inform the public that the investigation is underway, to describe the general scope of the investigation, to obtain assistance in the apprehension of a suspect, to warn the public of any dangers, or to otherwise aid in the investigation.

(5) *Pretrial conduct.* (i) From the time of apprehension, arrest, or the preferral of charges in any court-martial action until the commencement of trial or disposition without trial, neither trial or defense counsel, detailed or individual, shall release or authorize the release of any extra judicial statement, for dissemination by any means of public communication, relating to that matter and concerning:

(*a*) The prior criminal record (including arrests, or other charges of crime), or the character or reputation of the accused, except that counsel may make a factual statement of the accused's name, age, residence, occupation, and family status, and if the accused has not been apprehended, a trial counsel may release any information necessary to aid in his apprehension, or to warn the public of any dangers he may present;

(*b*) The existence or contents of any confession, admission, or statement given by the accused, or the refusal or failure of the accused to make any statement;

(*c*) The performance of any examinations or tests or the accused's refusal or failure to submit to an examination or test;

(*d*) The identity, testimony, or credibility of prospective witnesses, except that trial counsel may announce the identity of the victim if the announcement is not otherwise prohibited by law;

(*e*) The possibility of a plea of guilty to the offense charged or a lesser offense;

(*f*) Any opinion as to the accused's guilt or innocence or as to the merits of the case or the evidence in the case.

(ii) The foregoing shall not be construed to preclude any attorney associated with the case during this period, in the proper discharge of his official or professional obligations, from announcing the fact and circumstances of arrest (including time and place of arrest, resistance, pursuit, and use of weapons), the identity of the investigating and arresting officer or agency, and the length of the investigation; from making an announcement, at the time of seizure of any physical evidence other than a confession, admission, or statement, which is limited to a description of the evidence seized; from disclosing the nature, substance, or text of the charge, including a brief description of the offense charged; from quoting or referring without comment to records of the court in the case; from announcing the scheduling or result of any stage in the judicial process; from requesting assistance in obtaining evidence; or from announcing without further comment that the accused denies the charges made against him.

(6) *Conduct during trial.* During the trial of any court-martial, neither trial nor defense counsel, detailed or individual, shall give or authorize any extra-judicial statement or interview, relating to the trial or the parties or issues in the trial, for dissemination by any means of public communication, except that counsel may quote from or refer without comment to public records of the court in the case.

(7) *Posttrial conduct.* After the completion of a trial by court-martial or disposition without trial of any criminal matter, and prior to the imposition of sentence, neither trial nor defense counsel, detailed or individual, shall make or authorize any extrajudicial statement for dissemination by any means of public communication if there is a reasonable likelihood that such dissemination will affect the imposition of sentence.

[37 FR 17173, Aug. 25, 1972]

PART 837—SUPPORT OF NONGOVERNMENT GROUPS

Subpart A—Basic Principles

Sec.

837.1 Purpose.
837.2 Terms explained.
837.3 Scope.
837.4 General policies.
837.5 General restrictions.

Sec.

837.6 Additional restrictions on the support of commercial advertising, publicity, or promotion activity.

Subpart B—Detailed Instruction

837.7 Release of Air Force audiovisual material.
837.8 Help in the production of nongovernment audiovisual material.
837.9 Participation in nongovernment information events.
837.10 Reimbursement.
837.11 Pay for Air Force personnel.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: 43 FR 35478, Aug. 10, 1978, unless otherwise noted.

NOTE: Air Force Regulation 190-16, December 20, 1977.

Subpart A—Basic Principles

§ 837.1 Purpose.

(a) This part states the Air Force policy on supporting nongovernment groups engaged in information activities. It identifies the types of audiovisual material and support provided to these nongovernment groups.

(b) For guidance on Air Force information audiovisual policies and responsibilities, see Part 822 of this chapter. This part implements DOD instruction 5410.15, November 3, 1966; and DOD instruction 5410.16, January 21, 1964. It applies to all people involved in requests for Air Force support of nongovernment groups.

§ 837.2 Terms explained.

(a) *Audiovisual material.* Still photography, films, live television shows, video tapes, sound tapes, radio shows, stock film, and associated materials.

(b) *Nongovernment groups.* Groups not part of the Federal Government. This part is concerned with all nongovernment groups who make audiovisual material for public or private sale or use, as well as those who use such material in their advertising and those who want Air Force help in organizing events. Note that all print and electronic media, advertising and industrial firms, and contractors are covered by these rules.

(c) *Local.* This term refers to the area where Air Force-related audiovisual material might be used. To be local it cannot be used beyond the community or area where it originates. The local commander can approve audiovisual projects that he or she feels will not have regional or national interest. This applies to both the CONUS and overseas.

(d) *Regional.* Audiovisual material made by the Air Force or requested by a nongovernment group that is of news significance in more than one geographical area. As determined by the local commander, regional material must be of news significance only in specific geographical areas and must not be of national or international interest. This applies to the CONUS and overseas.

(e) *National.* Audiovisual material made by the Air Force or requested by a nongovernment group which, as determined by the local commander, exceeds the scope of the "local" and "regional" definitions in either geographical locale or program impact; or which features national policy, programs, and projects. This applies to the CONUS and overseas.

§ 837.3 Scope.

This part applies to all requests for Air Force support of nongovernment groups engaged in information activities. These include, but are not limited to:

(a) Requests from theatrical, film, television, and radio producers; news media representatives, advertisers, and contractors.

(b) Requests for:

(1) Release of Air Force audiovisual material.

(2) Cooperation or assistance by the Air Force in the production of nongovernment audiovisual material.

(3) Participation by the Air Force in programs, projects, or events sponsored by a nongovernment group.

§ 837.4 General policies.

(a) Air Force public information programs are performed as much as possible with Air Force resources and under Air Force sponsorship.

(b) The Air Force supports nongovernment groups within the rules of this part to the extent the national interest is served. Before approval, all requests for such support must be screened to ensure that support is in the national interest.

(c) Except as otherwise authorized, the Director of Information, HQ USAF, has approval authority within the Air Force for all cases covered by this part. The Director decides whether the support requested complies with the guidelines in this part and other regulations.

(d) Prior SAF/OI coordination is not required to release Air Force audiovisual material that is otherwise releasable under this part and other regulations if the material deals with spot news events (that is, events that take place without prior planning or knowledge) or is of local interest only.

§ 837.5 General restrictions.

Air Force support of nongovernment groups engaged in information activities is subject to these general restrictions:

(a) Before final approval, production companies, and other nongovernment groups engaged in information activities may contact Air Force personnel or organizations for information, suggestions, access for technical research, or guidance in writing the required letter of request for assistance to SAF/OI and the accompanying list of specific requirements. The Air Force organization or member involved may provide these services only with the clear understanding that no commitment for final cooperation is being made or implied.

(b) No Air Force audiovisual material is produced exclusively for, or to meet the needs of, a particular nongovernment group engaged in information activities.

(c) Help is not afforded any production that:

(1) Involves the unauthorized disclosure of classified information or equipment.

(2) Discredits or misrepresents the Air Force, its uniform, or equipment.

(d) Each member of the Air Force who produces or handles Air Force audiovisual materials (including any photography done in the line of duty) is prohibited from personally using or releasing such material to nongovernment users.

§ 837.6 Additional restrictions on the support of commercial advertising, publicity, or promotion activity.

(a) Support is withheld from any such project if the information presented:

(1) Is not true.

(2) States or implies that the Air Force approves or likes one product over another. Phrases such as "Government-approved" and "Air Force-certified" are not authorized.

(3) Compares the relative merits of current weapons or weapon systems.

(4) Refers to the economic impact of a proposed continuation or termination of a defense contract.

(5) Reproduces the Air Force seal or any of its parts, except as authorized by Part 800 of this chapter.

(b) Each member of the Air Force is prohibited from using his or her military title or position to endorse commercial products, services, or activities; from assuming resonsibility for any advertising claims; and from using his or her position in the Air Force for personal gain (refer to Part 920 of this chapter).

(c) The Air Force does not bear any of the cost of advertisements, except according to section XV, Armed Services Procurement Regulation (ASPR).

Subpart B—Detailed Instructions

§ 837.7 Release of Air Force audiovisual material.

All audiovisual material held by the Air Force and requested by or for a nongovernment group is subject to the restrictions in paragraphs (a) and (b) of this section regardless of the purpose for which the material was originally made.

(a) Release of Air Force audiovisual material to a nongovernment person or group requires SAF/OI approval if it is:

(1) Material of regional, national, or international interest.

(2) Material that requires HQ USAF approval for release under applicable contract provisions.

(3) Material subject to review under Part 806 of this chapter; AFR 95-14, Programming and Producing Audiovisual Products and Services; AFR 190-12, Release of Unclassified Information to the Public; AFR 190-17, Review and Clearance of Department of the Air Force Information; or AFR 190-22, Release of Unclassified Public Information to Foreign Nationals.

(b) The request to SAF/OI must include:

(1) A copy of the request from the nongovernment group and a copy or description of the material requested.

(2) The intended purpose for which the material is requested.

(3) If it is a request for support of any commercial advertising, publicity, or promotion activity, a statement that the use of any audiovisual material provided does not in any manner imply either Department of Defense or Air Force sponsorship, approval, or endorsement.

§ 837.8 Help in the production of nongovernment audiovisual material.

(a) All requests for Air Force help in the production of nongovernment audiovisual material must be submitted to SAF/OI, except:

(1) Requests for help in the production of audiovisual material for local use.

(2) Requests for help from news media representatives when the subject matter is of local interest only, or deals with spot news events that take place without prior planning or knowledge, and is releasable under existing regulations.

(3) Requests for help from commercial advertisers, when the help consists solely of advice or guidance.

(4) Requests for help from Air Force contractors when the help requested is directly related to the performance of contract requirements. Specifically restricted without SAF/OI approval is Air Force help to any contractor-sponsored photography outside the scope of the contract, even if the photography does not interfere with an official mission and is performed at no cost to the Government. Special arrangements to support contractor photography are prohibited.

(b) Any Air Force unit or personnel contacted by a representative of a nongovernment group for help in producing information audiovisual materials that have potential impact outside the local area must refer that representative to SAF/OI.

(1) Advise the representative that his or her request to SAF/OI must include this information:

(i) A synopsis, treatment, or script of the proposed project.

(ii) Anticipated specific support requirements; for example, military manpower, equipment, stock footage, flying hours, etc.

(iii) A projected production schedule, including filming dates and location work at each proposed facility.

(iv) A statement that the requested equipment and personnel services cannot be obtained from commercial or private enterprises.

(v) A statement that the required "hold harmless" agreement and the certificate of insurance will be provided to the Air Force representative before location photography on an Air Force facility.

(vi) A statement that the requestor owns, or has the authority to submit, the material, to SAF/OI for production assistance.

(2) Advise the representative that SAF/OI considers these general conditions in its decision on approval;

(i) The potential benefit to the Air Force, the DOD, or the Nation offered by the proposed production.

(ii) Historical accuracy and authenticity of portrayal of Air Force operations, incidents, persons, and places.

(iii) Compliance with accepted standards of dignity and propriety.

(iv) The degree of interference with Air Force operations.

NOTE: Operational readiness must not be impaired.

(v) Conformance to Air Force safety standards. This may require the production company to use military personnel as special equipment operators or in specialized duty stations.

(vi) Diversion of equipment, personnel, and material resources from normal Air Force locations and oper-

ations. This may be authorized only when the filming or recording cannot be done without it. Such diversions must be held to a minimum and must not interfere with military operations; and the production company must reimburse the Government for any expenses that result from the diversion. Special arrangements to support contractor photography are prohibited (see paragraph (a)(4) of this section).

§ 837.9 Participation in nongovernment information events.

(a) Submit to SAF/OI all requests for Air Force participation in programs, projects, or events of other than local interest sponsored by a nongovernment group. This includes, but is not limited to, contractor-sponsored events such as the public introduction of new items, rollouts, first flights, first Air Force acceptance, dedication of new facilities, anniversaries, and open houses.

(b) Specific restrictions: (1) Participation must not directly or indirectly help or appear to help any private individual, commercial venture, sect, or political or fraternal group. The participation must not be associated with the solicitation of votes in an election.

(2) Participation cannot help commercial advertising, publicity, or promotional activities, or events that help or favor a commercial venture.

(c) Exceptions to this section are authorized only to the extent and in the manner provided by Part 824 of this chapter.

§ 837.10 Reimbursement.

(a) Nongovernment groups engaged in producing audiovisual projects for use as news, as differentiated from documentary or other types of projects, do not have to pay for Air Force stock film or photographs or location photography on Air Force facilities.

(b) All other audiovisual producers must pay standard research fees and any other costs associated with providing Air Force stock film or photographs.

(c) Photography of static Air Force equipment for audiovisual productions determined by SAF/OI as complying with § 837.8(b)(2) are at no cost to the production company. Static photography for productions that do not meet those criteria, if approved, are at the nongovernment user's cost.

(d) Productions that comply with § 837.8(b)(2) are charged for consumables used in the production, including fuel costs per flying hour and replacement costs for such items as blank ammunition, flares, etc. Support of productions that do not meet those criteria, if approved, is at the full nongovernment user rate.

(e) The Air Force organization owning the resources expended or the equipment involved presents its bill(s) to the production company through the Air Force project officer, with a copy to SAF/OI.

§ 837.11 Pay for Air Force personnel.

All Air Force personnel appearing in nonnews audiovisual productions are in a volunteer status. Their on- or off-duty status requirements are based on the nature of their appearances.

(a) If the personnel are performing their normal duties, and would perform them regardless of whether the audiovisual production depicted them, the personnel are on duty and may not legally receive remuneration from the production.

(b) If the personnel are not performing their normal duties, they are in an off-duty status and remuneration for their services may be negotiated between them and the production company.

(c) The production company bears directly the costs of travel and per diem for Air Force personnel engaged in any nongovernment audiovisual production; or else their parent organization bills the production company at prevailing military or Government civilian rates (as applicable) through the Air Force project officer, with a copy to SAF/OI.

PART 838—GRANTING TEMPORARY USE OF REAL PROPERTY

Sec.

838.1 Purpose.
838.2 Definitions.
838.3 Policy on temporary use of real property.
838.4 Air Force authority.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: 32 FR 11783, Aug. 16, 1967, unless otherwise noted.

§ 838.1 Purpose.

This part fixes responsibility and establishes authority and policy, for granting temporary use of Air Force real property (referred to in this part as outgrant). It applies to all real property (except industrial property) and interests therein under the jurisdiction and control of the Department of the Air Force (referred to in this part as Air Force real property).

§ 838.2 Definitions.

(a) *Real property.* Real property includes any right, title, or interest in land and buildings, fixed improvements, utilities, and other permanent type additions to land.

(b) *Lease.* A conveyance of an exclusive possessory interest in real property for a specified term, reserving to the owner rent or other consideration.

(c) *Easement.* A conveyance of an interest in real property for a specific purpose. It may be granted for a specified term or in perpetuity. The purposes for which the Air Force may grant easements affecting its property generally are limited by law. This limitation, plus the fact that the grantor is not excluded from such use of his real property as will not interfere with the grantee's use, distinguishes the easement from the lease.

(d) *License or permit.* A privilege, revocable at will, to use the property of the licensor for a specified purpose and period of time. Generally, a permit is the proper instrument when the use of real property by another Federal Government agency is involved; in other cases a license is used.

(e) *Outgrants.* Includes leases, licenses, permits, easements, and grants of a similar nature.

(f) *Outlease.* The instrument leasing Government-owned real property.

(g) *Sublease.* A grant by a lessee of all or a part of his leasehold to another by lease.

§ 838.3 Policy on temporary use of real property.

(a) *Retention.* Real property which the Air Force does not currently need but which is retained for future use (such use does not prevent its outleasing for certain purposes) will be made available for use either exclusively or concurrently with the Air Force by another military department, other Federal agencies, State or local governmental agencies, and private organizations or individuals. Law, security, public safety, and potential Air Force need will govern the extent of such use. This policy does not apply to Air Force-owned utility systems and facilities.

(b) *Preference.* Air Force real property made available for other than Air Force use will be outgranted (on a nonsegregated basis) in the following order:

(1) Other military departments.

(2) Other Federal agencies.

(3) State and local governmental agencies.

(4) Private organizations or individuals.

(c) *Competition.* The use of Air Force real property for private purposes will be granted only after reasonable efforts have been made to obtain competitive bidding through advertising for its use. Advertising may include circulating notices among former owners, owners of adjacent property, and others known to be interested, posting notices in public places, or publishing notices in newspapers and trade journals. Competitive bidding will give all qualified persons equal opportunity to bid for use of the property, obtain for the Government the benefits of such bidding, and prevent criticism that favoritism has been shown by officers or Government employees in making public property available for private use. Normally, the Corps of Engineers will handle this advertising. Waiver of competition is granted for the following actions:

(1) Leasing property to the former owners, or their lessees, at the discretion of the Secretary of the Air Force or a duly authorized representative. Former owners or their tenants will be

given an opportunity to lease the land for grazing or agriculture only until a final land management plan for the Government's use of the land is established (see par. 13, AFR 90-1 (Pavements and Grounds)). Pending establishment of this plan, the outlease for grazing or agriculture may be granted by negotiation to each former owner or the tenants for a maximum of one 5-year term. After expiration of this original outlease, leases are granted by competitive bidding.

(2) Granting leases, easements, and licenses to State or local governments, and public utilities.

(3) Granting permits to other Federal agencies.

(4) Leasing cable pairs.

(5) Outleasing Air Force property to religious organizations.

(d) *Commercial advertising.* Posting notices or erecting billboards or signs for commercial purposes on Air Force property is prohibited.

(e) *Grants which may embarrass the Air Force.* Unless specifically authorized by law, the Air Force will not authorize occupancy of its property by license or lease where revocation of the license or lease might prove embarrassing to the Air Force.

(f) *Public safety.* Lands or buildings and improvements which are contaminated with explosives or toxic materials, or other innately or potentially harmful elements, will not be used for nonmilitary purposes when such action will endanger the lives of individuals or the public.

(g) *Subleasing.* Air Force outleased property will not be subleased without prior approval of the Air Force. This approval may be granted by the echelon of command approving the original lease. All outleases will contain a clause to provide for the enforcement of this policy.

(h) *Outleasing land for agricultural use.* Air Force real property will not be leased to grow price-supported crops in surplus supply unless:

(1) Leases were executed before July 21, 1956, and all renewal option periods have not yet expired.

(2) The acquisition of real property resulted in commitments which obligated the Air Force to make the property available for continued use by the former owners or tenants, and the preferential leasing arrangements have been continuous and are in effect. This exception will automatically cease when all renewal options expire. In those cases where leases expire before harvesting time for crops, the owner or tenant will be given a reasonable period of time for such harvesting.

(3) Requests for exceptions to the above will be submitted to Hq USAF (AFOCE-F) to obtain necessary approvals.

NOTE: Department of Agriculture designated price-supporting crops in surplus supply are corn, grain sorghums, rice, wheat, peanuts, dry edible beans, tobacco (kinds for which acreage allotments are in effect), and cotton (upland and extra long staple). Amendments to this list will be announced by the Department of Agriculture through the Assistant Secretary of Defense (Properties and Installations).

(i) *Making Air Force real property available for exploration and mining of minerals.* The Secretary of the Air Force may grant licenses to private interests permitting mineral exploration on Air Force land except public domain in accordance with his authority. Such exploration will be permitted when it is of direct benefit to the United States and does not interfere with the mission of the installation. Enabling legislation must be enacted to authorize the Secretary of the Air Force to permit the mining of minerals on Air Force land.

(j) *Fair market value.* It is Bureau of the Budget policy that fair market value should be realized from the sale or use of Federally owned real property. Therefore, in all outleasing actions, except where otherwise specifically authorized, the Air Force must receive adequate consideration, in either money or services, equal to the fair rental value of the real property outleased.

(k) *Land management.* After the agronomist or grounds maintenance supervisor has determined the land management program for an installation, maintenance may be accomplished through outleasing where value of use of the land exceeds value of services rendered. If value of services desired exceeds value of revenue

to be derived from the land, then grounds maintenance should be accomplished under a competitive grounds maintenance contract (reference AFR 90-1). These values will be determined by the District Engineer, Corps of Engineers.

§ 838.4 Air Force authority.

The Secretary of Air Force has authority for granting temporary use of real property as follows:

(a) *Lease authority.* When it is considered advantageous to the United States to lease real or personal property which is not then required for public use and is not excess to the Air Force and on terms and conditions that will promote the national defense or will be in the public interest.

(1) *Term.* Each such lease shall be for not more than 5 years unless the Secretary of the Air Force determines that a longer period will promote the national defense or will be in the public interest.

(2) *Revocation.* Each such lease shall contain a provision permitting the Secretary of the Air Force to revoke the lease at any time, unless it is determined that the omission of such provision from the lease will promote the national defense or will be in the public interest. Each lease shall be revocable by the Secretary of the Air Force during a national emergency declared by the President.

(3) *Consideration.* Any such lease may provide for the maintenance, protection, repair, or restoration by the lessee of the property leased, or of the entire unit or installation where a substantial part thereof is leased, as a part or all of the consideration for the lease of such property. Consideration for leases will provide for fair market rental value.

(4) *Utilities and services.* If the lease specifies that the Air Force will furnish utilities or services, payments for the utilities or services may be deposited into the Treasury to the credit of the appropriations from which the costs of furnishing such utilities or services to the lessee were paid. Written agreements and rates to be charged for furnishing utility services to the lessee shall be in accordance with the provisions of AFR 91-5 (Utility Services).

(5) *Restriction against leasing for mineral purposes.* The authority granted in this section does not extend to leasing lands for exploiting oil, minerals, or phosphates. It does not prohibit leasing lands that may contain oil, minerals, or phosphates, provided that such substances are not used or removed.

(6) *Taxation.* The lessee's interest, made or created pursuant to the authority granted, shall be subject to State or local taxation. Any such lease will provide that the lease will be renegotiated, if and to the extent that such property is made taxable by State and local governments by Act of Congress.

(7) *Capehart housing leases.* When the Secretary of the Air Force determines that it is necessary to lease any land held by the U.S. on or near a military installation to effectuate the purposes of this title, he may lease such land on such terms and conditions as will, in his opinion, best serve the national interest. This authority shall be in addition to and not in derogation of any other power or authority of the Secretary of the Air Force.

(b) *Easement*—(1) *Authority for rights-of-way.* (i) To grant easements for rights-of-way over, in, and on public lands permanently withdrawn or reserved for the use of that department, and other lands under his control, to a State, Territory, Commonwealth, possession, or political subdivision thereof, or to a citizen, association, partnership, or corporation of a State, Commonwealth, or possession, for:

(*a*) Railroad tracks.

(*b*) Oil pipelines.

(*c*) Substations for electric power transmission lines, telephone lines, and telegraph lines, and pumping stations for gas, water, sewer, and oil pipe lines.

(*d*) Canals.

(*e*) Ditches.

(*f*) Flumes.

(*g*) Tunnels.

(*h*) Dams and reservoirs in connection with fish and wildlife programs, fish hatcheries, and other improvements relating to fishculture.

(i) Roads and streets.

(j) Any other purpose that he considers advisable within statutory limitations.

(ii) No easement granted under this section may include more land than is necessary for the easement.

(iii) The Secretary of the military department concerned may terminate all or part of any easement granted under this section for:

(a) Failure to comply with the terms of the grant.

(b) Nonuse for a 2-year period.

(c) Abandonment.

(iv) Copies of instruments granting easements over public lands under this section shall be furnished to the Secretary of the Interior.

(2) *Gas, water, sewer, pipeline, and rights-of-way.* (i) The Secretary of the Air Force may grant, on such terms as he considers advisable, easements for rights-of-way over, in, and on public lands permanently withdrawn or reserved for the use of that department, and other lands under his control, for gas, water, and sewer pipelines, to a State, Commonwealth, possession, or political subdivision thereof, or to a citizen, association, partnership, or corporation of a State, Commonwealth, or possession.

(ii) No easement granted under this section may include more land than is necessary for the easement.

(iii) To grant easements for rights-of-way, for a period of not more than 50 years from the date of the issuance of the grant, over, across, and on the public lands and reservations of the U.S. for electrical poles and lines for the transmission and distribution of electrical power, poles and lines for communication purposes, and for radio, television, and other forms of communication transmitting, relay, and receiving structures and facilities to the extent of 200 feet on each side of the center line of such lines and poles, and not more than 400 feet by 400 feet for radio, television, and other forms of communication transmitting, relay, and receiving structures and facilities to any citizen, association, or corporation of the United States.

(iv) To grant authority to allow the landing of ferries and erection of bridges on, and the driving of livestock across military reservations.

(c) *License*—(1) *General authority for grants under administrative power.* The Secretary of the Air Force, by revocable license, may permit the use of real estate, provided that the property is not then required by the Air Force, the license conveys no interest therein, and the proposed use will be of direct benefit to the United States. This authority is not to be invoked if an express statutory authority grants the permission desired.

(2) *Express statutory authority*—(i) *American National Red Cross.* The Secretary of the Air Force is authorized to grant revocable licenses to the American National Red Cross to erect and maintain on military reservation buildings which are suitable for storing supplies to aid the civilian population in serious national disaster, or to occupy for that purpose buildings erected by the United States.

(ii) *Young Men's Christian Association.* The Secretary of the Air Force is authorized under conditions prescribed to issue a revocable license to the International Committee of Young Men's Christian Association of North America to erect and maintain on military reservations within the United States, its Commonwealths and possessions buildings needed by that organization to promote social, physical, intellectual, and moral welfare of Air Force personnel on those reservations.

(iii) *Post offices.* The Secretary of the Air Force shall assign suitable space for postal purposes at each air base where there is a post office.

(iv) *National Guard.* The Secretary of the Air Force is authorized to permit the National Guard to participate in encampments, maneuvers, and outdoor target practice for field or coast defense instruction. This includes authority to grant revocable licenses to States for the temporary use and occupancy of military reservations or portions thereof by the Air National Guard. The States may not assign or sublet the property, or use the property for other than National Guard purposes. A license may not be granted to erect a permanent National Guard Armory on military reserva-

90-112 O—82——16

tions without specific Congressional authority.

(v) *Civil Air Patrol.* The Secretary of the Air Force may grant licenses to the Civil Air Patrol to use Air Force facilities.

(d) *Permits to other Federal agencies*—(1) *Authority.* The Secretary of the Air Force, under administrative powers, may authorize other Federal Government agencies to use Air Force property by permit.

(2) *Consideration.* Consideration will not be reserved in instruments authorizing other Federal Government agencies to use Government-owned property under the control of the Air Force. The permittee may be required to reimburse the Air Force for utilities and services furnished by the Air Force, and, if required, reimburse the Air Force for its proportionate share of the rental paid by the Air Force. (See AFRs 91-5 and 172-3 (Utility Services and Host-Tenant Relationships, respectively).)

(e) *Grants requiring enabling legislation.* Except as indicated in this part, enabling legislation must be enacted to authorize the Secretary of the Air Force to grant an interest in real estate for the purpose of:

(1) Mining, except for uranium and similar minerals which are under the control of the Atomic Energy Commission.

(2) Drilling oil and gas wells, or selling oil or other minerals.

SUBCHAPTER D—CLAIMS AND LITIGATION

PART 840—RELEASING INFORMATION FOR LITIGATION AND APPEARANCE OF WITNESSES BEFORE CIVILIAN COURTS AND OTHER TRIBUNALS

Sec.

840.1 Purpose.
840.2 Definitions.
840.3 Air Force policy.
840.4 Responsibility.
840.5 Limitations.
840.6 Fees and charges.
840.7 Requests for depositions or statements.
840.8 Authentication of documents.
840.9 Release to the Department of Justice.
840.10 Release to Government Contractors.
840.11 Compliance with subpoena.
840.12 Witnesses in private litigation.
840.13 Witnesses in suits involving the United States.
840.14 Travel expenses in litigation involving the United States.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: 35 FR 15639, Oct. 6, 1970, unless otherwise noted.

§ 840.1 Purpose.

This part covers release of official Air Force information for litigation purposes, and guides Air Force military and civilian personnel appearing as witnesses. It does not apply to release of official information to courts-martial or administrative boards convened by U.S. Military authorities. Air Force personnel who have custody of official information requested for use in litigation, or who are requested to appear as witnesses, must comply. Oversea major commands may supplement this part to meet local requirements.

§ 840.2 Definitions.

(a) *Official information.* All documents, records, or papers in the custody of the Air Force and its personnel, and factual matters within the knowledge of Air Force personnel, prepared or obtained in the performance of official duties.

(b) *Litigation.* Lawsuits, hearings, investigations, or similar proceedings in civilian courts, commissions, boards or other tribunals.

§ 840.3 Air Force policy.

Official factual information is made available for use in litigation, and Air Force personnel are permitted to testify concerning official factual information, unless the information is classified or privileged. Records exempted from public disclosure by 5 U.S.C. 552(e) are not required to be released, but Air Force policy is to release them if no significant purpose is served by withholding them (see Part 806 of this chapter).

§ 840.4 Responsibility.

The staff judge advocate is responsible for the release of information for use in litigation, unless release is clearly proper and authorized. If he considers such action necessary, he may refer matters to The Judge Advocate General for decision. The Judge Advocate General may authorize the release of information or testimony of witnesses in civil litigation.

§ 840.5 Limitations.

(a) When the United States is a party to existing litigation, information will be released relevant to the litigation only when authorized by one of the following:

(1) The Judge Advocate General.

(2) The staff judge advocate of the major command concerned.

(3) The U.S. Attorney General.

(4) An appropriate U.S. Attorney.

(b) Custodians who receive requests for information that might aid in a claim or litigation against the United States should consult the staff judge advocate.

(c) When the United States is not a party to the litigation and the requested information does not appear to aid a claim or litigation against the United States, custodians may release information not classified or privileged.

(d) Information of a personal nature from personnel records is not released for litigation purposes without the

consent of the person who is the subject of the records, except:

(1) In response to a subpoena or court order properly issued and served.

(2) As authorized by the major command staff judge advocate or The Judge Advocate General.

(e) Medical information is released only under the following conditions:

(1) As stated in AFM 168–4 (Administration of Medical Activities) and Part 842 of this subchapter.

(2) In response to a proper subpoena or court order.

(3) As authorized by the major command staff judge advocate or The Judge Advocate General.

(f) Classified defense information is not released to courts or unauthorized persons under any circumstances unless the classification is removed by proper authority. If classified information is subpoenaed and cannot be declassified at lower levels, The Judge Advocate General should be notified. Pending his decision, the person on whom the subpoena is served answers the subpoena and informs the court of the restrictions of this section.

§ 840.6 Fees and charges.

Persons releasing copies of records to non-Government requestors collect fees and charges under Part 813 of this chapter.

§ 840.7 Requests for depositions or statements.

Requests by parties to prospective or actual litigation not involving the United States, for statements or depositions of Air Force personnel concerning matters connected with their official duties may be granted, provided this part is followed. Staff judge advocates will give legal advice as needed. Statements and depositions are voluntary with the individual concerned, unless required by valid legal process or the order of competent military authority.

§ 840.8 Authentication of documents.

Official Air Force documents used in civil litigation are authorized by certificate, rather than by the personal appearance and testimony of the custodian, wherever practicable. The authentication procedure in Part 847 of this subchapter meets the requirements of Federal courts and of most State courts and administrative bodies. Use the simple authentication procedure permissible.

§ 840.9 Release to the Department of Justice.

Department of Justice, through the U.S. Attorneys, represents the Government's interest in all litigation involving the Air Force. Unclassified information that is not privileged should be released to the Department of Justice or the U.S. Attorney on request. Requests for classified information that cannot be declassified at lower levels, or for privileged information are sent to The Judge Advocate General for decision.

§ 840.10 Release to Government contractors.

Contracting officers may grant requests from Government contractors for information for use in contractor litigation. Comply with this part and AFR 110–3 (Taxation, Legal and Administrative Actions, and Legal Process).

§ 840.11 Compliance with subpoena.

(a) Staff judge advocates give legal advice to Air Force personnel subpoenaed to appear and testify concerning official information. When release of the subpoenaed information is prohibited by this part, the person receiving the subpoena appears and explains the matter to the court. If the court is not satisfied and persists in requesting the information, the witness respectfully asks for time to send the question to The Judge Advocate General for decision. Staff judge advocates are authorized to accompany and advise the witness concerning a problem on release of official information.

(b) When a subpoena is served which calls for information which is classified or otherwise determined to be not releasable, staff judge advocates are authorized to communicate with counsel who requested the subpoena, explain the restrictions on release, tender releasable information, and suggest withdrawal of the subpoena.

(c) A subpoena which is defective for improper issue or service, or for lack of jurisdiction, is treated as a routine request for release of information.

§ 840.12 Witnesses in private litigation.

(a) Air Force personnel who are requested to appear and testify in private litigation in which the Government has no interest may be authorized to do so, if this part does not permit release of the requested information, and if there is no expense to the Government.

(b) Expenses are arranged between the witnesses and the party requesting his appearance. If absence exceeds normal pass privileges, the witness takes regular or annual leave. Commanders should be as liberal as practicable in granting leave for this purpose.

§ 840.13 Witnesses in suits involving the United States.

In these instances, the following rules should be followed:

(a) When U.S. Attorneys request the attendance of witnesses, and no temporary duty is required, honor the request if practicable.

(b) When U.S. Attorneys request the attendance of witnesses and temporary duty is required, ask the U.S. Attorney to request the witness through the Administrative Division, Department of Justice. Hq USAF (AF/JACL) directs travel.

(c) In hospital recovery litigation, honor requests by counsel assisting in the hospital recovery claim if practicable.

§ 840.14 Travel expenses in litigation involving the United States.

(a) The Air Force pays travel expenses of Air Force witnesses furnished on behalf of the United States in the following instances:

(1) To testify as to information obtained in the performance of official duties.

(2) In any case in which the Air Force is the agency concerned in the litigation.

(b) When Air Force witnesses are provided on behalf of the Government in other cases, travel expenses are reimbursed by the Government agency involved. Hq USAF gives instructions on funding the expense.

PART 841—LICENSING GOVERNMENT-OWNED INVENTIONS IN THE CUSTODY OF THE DEPARTMENT OF THE AIR FORCE

Subpart A—General

Sec.

841.1 Purpose.
841.2 Air Force policy.
841.3 Execution of licenses.
841.4 Delegation of authority.
841.5 Definitions.

Subpart B—Types of Licenses and Conditions for Licensing

841.6 Inventions available for licensing.
841.7 Nonexclusive license.
841.8 Limited exclusive license.
841.9 Additional licenses.
841.10 Royalties.
841.11 Reports.

Subpart C—Procedures

841.12 Publication requirements.
841.13 Requests for a nonexclusive or a limited exclusive license.
841.14 Contents of a nonexclusive license application.
841.15 Contents of a limited exclusive license application.
841.16 Published notices.
841.17 Modification or revocation.
841.18 License requests received by Air Force field activities.
841.19 Appeals.

Subpart D—Litigation

841.20 Government policy.

Subpart E—Transfer of Custody of Government Inventions

841.21 Procedures.

AUTHORITY: 10 U.S.C. 8012.

SOURCE: 42 FR 53958, Oct. 4, 1977, unless otherwise noted. Redesignated at 45 FR 43410, June 27, 1980.

Subpart A—General

§ 841.1 Purpose.

This part describes the policies, administrative requirements; procedures; terms; and conditions for licensing of rights in Government-owned domestic patents and patent applications vested

in the United States of America as represented by the Secretary of the Department of the Air Force. It implements DOD Directive 5535.3, November 2, 1973 and is consistent with GSA Licensing of Government-Owned Inventions; 41 CFR 101-4.1.

§ 841.2 Air Force policy.

(a) A major premise of the Presidential Statement of Government Patent Policy, August 23, 1971 (36 FR 16887, August 26, 1971), is that Government-owned inventions normally will best serve the public interest when they are developed to the point of practical application and made available to the public in the shortest possible time. The granting of express nonexclusive or exclusive licenses for the practice of these inventions may assist in the accomplishment of the national objective to achieve a dynamic and efficient economy.

(b) The granting of nonexclusive licenses generally is preferable since the invention is thereby laid open to all interested parties and serves to promote competition in industry, if the invention is in fact promoted commercially. However, to obtain commercial utilization of the invention, it may be necessary to grant an exclusive license for a limited period of time as an incentive for the investment of risk capital to achieve practical application of an invention.

(c) Whenever the grant of an exclusive license is deemed appropriate, it will be negotiated on terms and conditions most favorable to the public interest. In selecting an exclusive licensee, consideration shall be given to the capabilities of the prospective licensee to further the technical and market development of the invention, his plan to undertake the development, the projected impact on competition, and the benefit to the Government and the public. Consideration will be given also to assisting small business and minority business enterprises, as well as economically depressed, low income, and labor surplus areas, and whether each or any applicant is a U.S. citizen or corporation. Where there is more than one applicant for an exclusive license, that applicant will be selected who is determined to be most capable of satisfying the criteria and achieving the goals set forth in this part.

(d) No license will be granted or implied in any invention under the custody of the Department of the Air Force other than as provided for in this part except under:

(1) Any existing of future treaty or agreement between the United States and any foreign government or intergovernmental organization, or

(2) Licenses under or other rights to inventions made or conceived in the course of or under Department of the Air Force research and development contracts where such licenses or other rights to such inventions are granted to or provided for in the contract and retained by the party contracting with the Department of the Air Force.

(e) No grant of a license under this part will be construed to confer upon any licensee any immunity from the antitrust laws or from a charge of patent misuse, and the acquisition and use of rights pursuant to this part will not be immunized from the operation of State or Federal law by reason of the source of the grant.

§ 841.3 Execution of licenses.

Nonexclusive and exclusive licenses will be executed on behalf of the Department of the Air Force by the Secretary.

§ 841.4 Delegation of authority

The administration of this part is delegated to the Judge Advocate General and, while he is so acting, to any individual who is Acting The Judge Advocate General. The Judge Advocate General may redelegate, without the power of redelegation, to the Chief, Patents Division, Office of the Judge Advocate General, the administration of this part.

§ 841.5 Definitions.

(a) "Government invention" means an invention covered by a domestic patent application that is vested in the United States and in the custody of the Department of the Air Force, and is designated by the Air Force as appropriate for the grant of an express nonexclusive or exclusive license.

(b) "To the point of practical application" means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

Subpart B—Types of Licenses and Conditions for Licensing

§ 841.6 Inventions available for licensing.

Government inventions normally will be made available for the granting of express nonexclusive or limited exclusive licenses to responsible applicants according to the factors and conditions set forth in §§ 841.7 and 841.8, subject to the applicable procedures of Subpart C of this part.

§ 841.7 Nonexclusive license.

(a) *Availability of licenses.* Each Government invention normally will be made available for the granting of nonexclusive revocable licenses, subject to the provisions of any other licenses, including those under § 841.9.

(b) *Terms of grant.* (1) The duration of the license will be for a period as specified in the license agreement, provided that the licensee complies with all the terms of the license.

(2) The license will require the licensee to bring the invention to the point of practical application within a period specified in the license, or such extended period as may be agreed upon, and to continue to make the benefits of the invention reasonably accessible to the public.

(3) The license may be granted for all or less than all fields of use of the invention, and throughout the United States of America, its territories and possessions, the Commonwealth of Puerto Rico, and the District of Columbia, or in any lesser geographic portion thereof.

(4) After termination of a period specified in the license agreement, the Air Force may restrict the license to the fields of use and/or geographic areas in which the licensee has brought the invention to the point of practical application and continues to make the benefits of the invention reasonably accessible to the public.

(5) The license may extend to subsidiaries and affiliates of the licensee but will be nonassignable without approval of the Air Force, except to the successor of that part of the licensee's business to which the invention pertains.

(6) The Government makes no representation or warranty as to the validity of any licensed patent or patent application, or of the scope of any of the claims contained therein, or that the exercise of the license will not result in the infringement of any other patent. Moreover, the Government assumes no liability whatsoever resulting from the exercise of the license.

§ 841.8 Limited exclusive license.

(a) *Availability of licenses.* Each Government invention may be made available for the granting of a limited exclusive license provided that:

(1) The invention has been published as available for licensing pursuant to § 841.12 for a period of at least 6 months;

(2) It has been determined that (i) the invention may be brought to the point of practical application in certain fields of use and/or in certain geographical locations by exclusive licensing, (ii) the desired practical application has not been achieved under any nonexclusive license granted on the invention, and (iii) the desired practical application is not likely to be achieved expeditiously in the public interest under a nonexclusive license or as a result of further Government-funded research or development;

(3) The notice of the prospective licensee has been published, pursuant to § 841.6 for at least 60 days; and

(4) After termination of the period set forth in § 841.8(a)(3), the Air Force has determined that no applicant for a nonexclusive license has brought or will bring, within a reasonable period, the invention to the point of practical application as specified in the exclusive license, and that to grant the exclusive license would be in the public interest.

(b) *Selection of exclusive licensee.* An exclusive licensee will be selected on bases consistent with the policy set forth in § 841.2 and in accordance with the procedures set forth in Subpart C of this part.

(c) *Terms of grant.* (1) The license may be granted for all or less than all fields of use of the Government invention and throughout the United States of America, its territories and possessions, the Commonwealth of Puerto Rico, and the District of Columbia, or in any lesser geographic portion thereof.

(2) Subject to the rights reserved to the Government in § 841.8 (c)(6) and (c)(7), the licensee will be granted the exclusive right to practice the invention in accordance with the terms and conditions specified in the license.

(3) The duration of the license will be negotiated but will be for a period less than the terminal portion of the patent, the period remaining being sufficient to make the invention reasonably available for the grant of a nonexclusive license; and such period of exclusively will not exceed 5 years unless it has been determined on the basis of a written submission supported by a factual showing that a longer period is reasonably necessary to permit the licensee to enter the market and recoup his reasonable costs in so doing.

(4) The license will require the licensee to bring the invention to the point of practical application within a period specified in the license, or within a longer period as approved by the Air Force, and to continue to make the benefits of the invention reasonably accessible to the public.

(5) The license will require the licensee to expend a specified minimum amount of money and/or to take other specified actions, within a specified period of time after the effective date of the license, in an effort to bring the invention to the point of practical application.

(6) The license will be subject to the irrevocable royalty-free right of the Government of the United States to practice and have practiced the invention by or on behalf of the Government of the United States and on behalf of any foreign government or intergovernmental organization pursuant to any existing or future treaty or agreement with the United States.

(7) The license will reserve to the Air Force the right to require the licensee to grant sublicenses to responsible applicants on terms that are reasonable in the circumstances: (i) To the extent that the invention is required for public use by Government regulations, or (ii) as may be necessary to fulfill health or safety needs, or (iii) for other public purposes stipulated in the license.

(8) The license may extent to subsidiaries and affiliates of the licensee but will be nonassignable without approval of the Air Force, except to successors of that part of the licensee's business to which the invention pertains.

(9) An exclusive licensee may grant sublicenses under his license, subject to the approval of the Air Force. Each sublicense granted by an exclusive licensee will make reference to the exclusive license, including the rights retained by the Government under the exclusive license, and a copy of such sublicense will be furnished to the Air Force.

(10) The license may be subject to such other terms as may be in the public interest.

(11) The Government makes no representation or warranty as to the validity of any licensed patent or patent application, or of the scope of any of the claims contained therein, or that the exercise of the license will not result in the infringement of any other patent. Moreover, the Government assumes no liability whatsoever resulting from the exercise of the license.

§ 841.9 Additional licenses.

Subject to any outstanding licenses, nothing in this part will preclude the Air Force from granting additional nonexclusive or limited exclusive licenses for Government-owned inventions when the Air Force determines that to do so would provide for an equitable exchange of patent rights. The following exemplify circumstances wherein such licenses may be granted:

(a) In consideration of the settlement of an interference;

(b) In consideration of a release of a claim of infringement; or

(c) In exchange for or as part of the consideration for a license under adversely held patents.

§ 841.10 Royalties.

(a) Normally, royalties will not be charged under nonexclusive licenses granted to U.S. citizens and U.S. corporations on Government inventions; however, the Air Force may require other considerations.

(b) A limited exclusive license on a Government invention will contain a royalty provision and/or other consideration flowing to the Government.

§ 841.11 Reports.

A license will require the licensee to submit periodic reports to the Air Force on his efforts to achieve practical application of the invention. The reports will contain information within his knowledge, or which he may acquire under normal business practices, pertaining to the commercial use being made of the invention and other information which the Air Force may determine is pertinent to its licensing activities and is specified in the license.

Subpart C—Procedures

§ 841.12 Publication requirements.

The Department of the Air Force will cause to be published in the FEDERAL REGISTER, the Official Gazette of the U.S. Patent and Trademark Office, and at least one other publication that the Air Force deems would best serve the public interest, a list of the Government inventions in custody of the Department of the Air Force available for licensing under the conditions specified in Subpart B of this part. The list will be revised periodically to include directly or by reference to a previously published list, all inventions currently available for licensing other publications on inventions available for licensing may be made and may include abstracts of the inventions when appropriate, as well as information on the design construction, use and potential market for the inventions.

§ 841.13 Requests for a nonexclusive or a limited exclusive license.

Requests for licenses under a Government invention in the custody of the Department of the Air Force should be addressed to the Chief, Patents Division, HQ USAF/JACP, Washington, D.C. 20314.

§ 841.14 Contents of a nonexclusive license application.

An application for a nonexclusive license will include:

(a) Identification of the invention for which a license is desired, including the patent application serial number or patent number, title and date, if known, and any other identification of the invention:

(b) Name and address of the person, company, or organization applying for license and whether the applicant is a U.S. citizen or U.S. corporation:

(c) Name and address of representative of applicant to whom correspondence should be sent:

(d) Nature and type of applicant's business:

(e) Source of information concerning the availability of a license on this invention:

(f) Purpose for which license is desired and a brief description of applicant's plan to achieve that purpose:

(g) A statement of the fields of use for which applicant intends to practice the invention; and

(h) A statement as to the geographic areas in which the applicant would practice the invention.

§ 841.15 Contents of a limited exclusive license application.

In addition to the information indicated in § 841.14 an application for a limited exclusive license will include:

(a) Applicant's status, if any, in any one or more of the following categories:

(1) Small business firm.

(2) Minority business enterprise.

(3) Location in a surplus labor area.

(4) Location in a low-income area and

(5) Location in an economically depressed area.

(b) A statement of applicant's capability to undertake the development and marketing required to achieve the practical application of the invention;

(c) A statement describing the time expenditure and other acts which the applicant considers necessary to achieve practical application of the invention and the applicant's offer to invest the facilities and funds to perform such acts if the license is granted;

(d) A statement that contains the applicant's best knowledge of the extent to which the Government invention is being practiced by private industry and the Government; and

(e) Any other facts which the applicant believes are evidence that it is in the public interest for the Air Force to grant a limited exclusive license rather than a nonexclusive license and that such limited exclusive license should be granted to the applicant.

§ 841.16 Published notices.

(a) A notice that a prospective limited exclusive licensee has been selected will be published by the Air Force in the FEDERAL REGISTER, and a copy of the notice will be sent to the Attorney General. The notice will include:

(1) Identification of the invention;

(2) Identification of the selected licensee;

(3) Duration and scope of the contemplated license;

(4) A statement to the effect that the license will be granted unless:

(i) An application for a nonexclusive license, submitted by a responsible applicant pursuant to § 841.4, is received by the Air Force within 60 days from the publication of the notice in the FEDERAL REGISTER; and the Air Force determines in accordance with its prescribed procedures, under which procedures the Air Force will record and make available for public inspection all decisions made pursuant thereto and the basis therefor, that the applicant has established that he has already achieved or is likely to bring the invention to the point of practical application within a reasonable period under a nonexclusive license; or

(ii) The Air Force determines that a third party has presented evidence and argument which has established that it would not be in the public interest to grant the exclusive license.

(b) If a limited exclusive license has been granted pursuant to this part, notice thereof will be published in the FEDRAL REGISTER. Such notice will include:

(1) Identification of the invention.

(2) Identification of the licensee.

(3) Duration and scope of the license.

(c) If a limited exclusive license has been modified or revoked pursuant to § 841.17, notice thereof will be published in the FEDERAL REGISTER. Such notice will include:

(1) Identification of the invention.

(2) Identification of the licensee.

(3) Effective date of modification or revocation.

§ 841.17 Modification or revocation.

(a) Any license granted pursuant to this part may be modified or revoked by the Air Force if the licensee at any time defaults in making any report required by the license or commits any breach of any covenant or agreement therein contained.

(b) A license may also be revoked by the Air Force if the licensee willfully makes a false statement of a material fact or willfully omits a material fact in the license application or any report required in the license agreement.

(c) Before modifying or revoking any license granted pursuant to this regulation for any cause, the Air Force will furnish the licensee and any sublicensee of record a written notice of intention to modify or revoke the license; and the licensee and any sublicensee will be allowed 30 days after such notice to remedy any breach of any covenant or agreement as referred to in § 841.7(a) or to show cause why the license should not be modified or revoked.

§ 841.18 License requests received by Air Force field activities.

All communications received in any Air Force activity requesting information regarding the licensing of a Government invention will be acknowl-

edged and forwarded without further action directly to HQ USAF/JACP, Washington, D.C. 20314.

§ 841.19 Appeals.

An applicant for a license, a licensee, or such other third party who has participated under § 841.6(a)(4)(ii) shall have the right to appeal to the Judge Advocate General, or in his absence, to the Acting Judge Advocate General, any decision concerning the granting, denial, interpretation, or modification, or revocation of a license. Such appeal must be made in writing and within 60 days from the date the decision was mailed.

Subpart D—Litigation

§ 841.20 Government policy.

The property interest in a patent is the right to exclude. It is not the intent of the Government to transfer the property right in a patent when a license is issued pursuant to this part. Accordingly, the right to sue for infringement will be retained with respect to all licenses so issued by the Government.

Subpart E—Transfer of Custody of Government Inventions

§ 841.21 Procedure.

Under certain circumstances it may be in the best interest of the Air Force to enter into an agreement to transfer its custody of an invention to another Government agency for purposes of administration including the granting of licenses pursuant to this part. Such transfers will be made on a case-by-case basis.

PART 842—ADMINISTRATIVE CLAIMS

Sec.

842.0 Scope.

Subpart A—Processing Claims

842.1 Who may present a claim.
842.2 Where to present a claim.
842.3 Evidence to be submitted by claimant.
842.4 Procedures for emergency payments.
842.5 *Transfers and assignments of claims.*
842.6 Participation in prosecution of claims and disclosure of information.
842.7 Prejudging claims.
842.8 Action on disapproving claims.

Subpart B—Article 139 UCMJ Claims (10 U.S.C. 939)

842.10 Scope.
842.11 Definitions.
842.12 Claims payable.
842.13 Claims not payable.
842.14 Limitations on application.
842.15 Procedure.

Subpart C—Personnel Claims (31 U.S.C. 240-243)

842.20 Scope of subpart.
842.21 General provisions.
842.22 Presenting cognizable claims.
842.23 Claims cognizable under this subpart.
842.24 Cognizable claims not payable.
842.25 Claims not cognizable.
842.26 Actions to be taken when there is tariff liability or private insurance.
842.27 Transfer and assignment of rights.
842.28 Replacement in kind.
842.29 Claims procedure.
842.30 Settlement authority.
842.31 Property recovered by claimant.
842.32 Items turned in for salvage.

Subpart D—Claims Under the Military Claims Act (10 U.S.C. 2733)

842.40 Scope of subpart.
842.41 The progressive pattern of the Military Claims Act.
842.42 General analysis.
842.43 Proper claimants.
842.44 Claimants excluded.
842.45 Claims payable under other subparts.
842.46 Claims payable under this subpart.
842.47 Determination of liability or responsibility.
842.48 Statute of limitations.
842.49 Settlement authority.

Subpart E—Foreign Claims (10 U.S.C. 2734)

842.50 Scope of subpart.
842.51 Scope and limitations of foreign claims.
842.52 Determining cognizability of a claim.
842.53 Claims cognizable under this subpart.
842.54 Settlement authority.

Subpart F—International Agreement Claims (10 U.S.C. 2734a and 2734b)

842.60 *Scope of subpart.*

BEST DOCUMENT AVAILABLE

Sec.
842.61 Types of claims agreements.
842.62 Government-to-government claims waiver agreements.
842.63 Territorial application (NATO).
842.64 Effect of SOF Agreements on U.S. statutes.
842.65 Claims excluded (NATO).
842.66 Government-to-government claims (NATO).
842.67 Third party claims (SOFA).
842.68 Counterclaims (SOF Agreement).
842.69 International military headquarters (NATO).
842.70 Processing international military headquarters third party claims.
842.71 U.S. sending state offices (SOFA).
842.72 U.S. claims payment authority.
842.73 U.S. receiving state office (SOFA).
842.74 Claims procedure in the United States (SOFA).
842.75 Lawsuit procedure in United States (SOFA).
842.76 Japanese SOFA.

Subpart G—Use of Government Property Claims (10 U.S.C. 2737)

842.80 Scope of subpart.
842.81 Settling claims under this subpart.
842.82 Claims and damages not payable.
842.83 Settlement authority.
842.84 Settling claims under this subpart.

Subpart H—Admiralty Claims (10 U.S.C. 9801-9804 and 9806)

842.90 Scope of subpart.
842.91 Statutory authority.
842.92 Waiver of interdepartmental claims.
842.93 Definitions.
842.94 Claims against U.S.—claims payable.
842.95 Claims against U.S.—claims not payable.
842.96 Claims against U.S.—statute of limitations.
842.97 Subrogation.
842.98 Claims in favor of U.S. (10 U.S.C. 9803, 9804)—assertable claims.
842.99 Claims in favor of U.S.—nonassertable claims.
842.99A Claims in favor of U.S.—demands.
842.99B Settlement authorities.
842.99C Finality of settlement.
842.99D Reconsideration.
842.99E Settlement authority for claims for and against the United States (see note 1 in this section).

Subpart I—Claims Under the Federal Tort Claims Act (28 U.S.C. 2671-2680)

842.100 Scope of subpart.
842.101 General provisions.
842.102 Proper claimants.
842.103 Cognizable claims.
842.104 Claims not cognizable.
842.105 Statute of limitations.
842.106 Government's right of indemnity.
842.107 Suits against individuals.
842.108 Attorneys' fees.
842.109 Alternative remedies available to claimants.
842.110 Settlement authority.
842.111 Proper claimants under the Federal Tort Claims Act.
842.112 Damages payable and not payable.

Subpart J—Property Damage Tort Claims in Favor of the United States (31 U.S.C. 71, 951-953)

842.120 Scope of subpart.
842.121 Assertable and nonassertable claims.
842.122 Statute of limitations.
842.123 Counterclaims.
842.124 Base Staff Judge Advocate's responsibilities.
842.125 Supervisory claims authority responsibilities.
842.126 Termination for the convenience of the Government.
842.127 Responsibilities of base staff judge advocate.

Subpart K—Air National Guard Claims (32 U.S.C. 715)

842.130 Scope of subpart.
842.131 Statutory authority.
842.132 Definitions.
842.133 Claims and claimants.
842.134 General provisions for settling ANG claims.
842.135 Claims and claimants.

Subpart L—Hospital Recovery Claims (42 U.S.C. 2651-3)

842.140 Scope of subpart.
842.141 Assertable claims.
842.142 Nonassertable claims.
842.143 Notification of injured party.
842.144 Waivers for undue hardship.
842.145 Compromise settlements.
842.146 Releasing records.
842.147 Settlement authority.
842.148 Settlement authorities for hospital recovery claims.

Subpart M—Nonappropriated Fund Claims

842.150 Scope of subpart.
842.151 Processing tort and tort-type third-party claims.
842.152 Claims involving commercial insurance.
842.153 Claims cognizable under this subpart.
842.154 Settlement authority.

BEST DOCUMENT AVAILABLE

Sec.
842.155 Claims by fund employees, customers, members, and participants.
842.156 Claims in favor of nonappropriated funds.
842.157 Claims cognizable and not cognizable under this subpart.

Subpart N—Civil Air Patrol (CAP) Claims (5 U.S.C. 8141(c); 10 U.S.C. 2733, 2734, 9441, and 9801–9806; 28 U.S.C. 2671–2680; 31 U.S.C. 71, 951–953; and 36 U.S.C. 201–208)

842.160 Scope of subpart.
842.161 Relation of the CAP to the Air Force.
842.162 Third party claims.
842.163 Compensation claims.
842.164 Government claims.
842.165 Cognizable third-party claims.

Subpart O—Other Claims

842.170 Scope.
842.171 General policy on accepting and handling claims by Staff Judge Advocates.
842.172 Claims for reimbursement under industrial security regulations.
842.173 Air Force Reserve claims.
842.174 AFROTC claims.
842.175 United States Postal Service claims.
842.176 Laundry and drycleaning claims.
842.177 Real estate claims.
842.178 Government department claims.
842.179 Combat or war damage claims.
842.180 Military rescue and assistance claims.
842.181 Solatia or gratuity payments.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012, unless otherwise noted.

SOURCE: 32 FR 14824, Oct. 26, 1967, unless otherwise noted.

§ 842.0 Scope.

This part establishes standard procedures and uniform policies for administrative processing of claims; prescribes basic records and reports used to process claims arising out of Air Force activities and claims for which the Air Force has been assigned responsibility; tells how to present, process, and settle claims.

[32 FR 14824, Oct. 26, 1967, as amended at 33 FR 2385, Jan. 31, 1968]

Subpart A—Processing Claims

§ 842.1 Who may present a claim.

(a) *Property damage.* (1) A claim for damage to, or loss or destruction of, property may be presented by the owner of the property, or in his name by his duly authorized agent or survivors, only as authorized in other subparts of this part.

(2) As used in this part, owner includes:

(i) *For real property.* The mortgagor, and the mortgagee if he can maintain a cause of action in the local courts involving a tort to that specific property. When notice of divided interests in real property is received, the claim should, if possible, be treated as a joint claim.

(ii) *For personal property.* A bailee, lessee, mortgagor, and conditional vendee. A mortgagee, conditional vendor, or others having title for purposes of security only are not proper claimants. If more than one party has a real interest in the property damaged, all must join in the claim.

(b) *Personal injury or death.* (1) A claim for personal injury may be presented by the injured person or by his duly authorized agent or legal representative.

(2) A claim based on death may be presented by the executor or administrator of the deceased's estate, or by any other person legally or beneficially entitled to do so under local law governing the rights of survivors.

(c) *Splitting claims.* A claim will normally include all damages that accrue to a claimant by reason of an accident or incident. For example, when the same claimant has a claim for damage to or loss of property and a claim for personal injury or a claim based on death arising out of the same incident, each of these, or any combination of them, represent only an integral part or parts of a single claim or cause of action. Even if local law permits the filing of split claims for property damage and personal injury, such a split claim will not be settled or paid without the prior approval of Hq USAF (JACC).

(d) *Subrogation.* (1) The claims of a subrogor (insured) and subrogee (in-

BEST DOCUMENT AVAILABLE

surer) for damages arising out of the same incident constitute the basis of a single claim, and thus the total of such claims may not exceed the monetary jurisdiction of the approving authority. If either claim or the combined claim exceeds, or is expected to exceed settlement limits, neither claim will be approved for payment, but the claim file will be forwarded to the next higher authority. Care will be exercised to avoid the splitting of subrogated claims through improper approval for payment.

(2) The subrogor and the subrogee may file a claim jointly or individually. A fully subrogated claim will be paid only to the subrogee. Joint claims must be asserted in the names of and signed by the real parties in interest, and the approved payment will be by a joint check sent to the subrogee. If split claims are filed, payment will be by check issued to each claimant to the extent of his undisputed interest.

(3) Subrogated claims are not cognizable under Subpart B, C, or G of this part.

(e) *Insurance.* An insured claimant must make a detailed disclosure of his insurance coverage by stating:

(1) Insurer's name and address.

(2) Kind and amount of insurance.

(3) Insurance policy number.

(4) Whether a claim has been presented to the insurer, and, if so, in what amount.

(5) Whether insurer has paid or is expected to pay the claim.

(f) *Signature on claim.* Claim forms will be signed in ink by the claimant. Signature will be first name, middle initial, and last name.

(1) *Claim presented by persons.* (i) A married woman signs her name, e.g., Mary A. Doe, rather than Mrs. John Doe.

(ii) An authorized agent or representative who signs for a claimant must show, after his signature, his title or capacity and attach evidence of his authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian, or other representative; for example John Doe by Richard Roe, Attorney in Fact. A copy of a current and valid power of attorney, court order, or other legal document is sufficient.

(2) *Claim with joint interest.* In States or countries where community property laws exist, both the husband and wife will sign the claim form if the claim is for property damage or personal injury to either spouse. Where a joint ownership or interest in real property is recognized by law, both the husband and wife must sign the claim form.

(3) *A claim presented by a corporation.* (i) If a corporate officer signs the form, he will show his title or capacity and affix the corporate seal (if any) to the claim form.

(ii) If a person not an officer of the corporate claimant signs the claim form on behalf of the corporation, he must attach to the form a certification by a corporate officer that he is an agent of the corporation duly authorized to present and settle the claim, and must affix the corporate seal (if any) to the certification.

[32 FR 14824, Oct. 26, 1967, as amended at 33 FR 2385, Jan. 31, 1968; 41 FR 50420, 50446, Nov. 16, 1976]

§ 842.2 Where to present a claim.

A claim will be presented to the commander of the military or civilian personnel involved, if known, or to the commander of the unit or installation at or nearest to which the accident or incident occurred. If the accident or incident occurred in a foreign country where no Air Force unit is stationed, the claim will be presented to the Defense attaché (DAJJ), or Military Assistance Advisory Group (MAAG) personnel authorized to receive claims (DIAM 100-1 and AFR 400-45). In those situations where a claimant in a foreign country is unable to obtain adequate assistance in presenting a claim, he may contact the nearest Air Force staff judge advocate, who will furnish such advice and claims assistance as may be necessary. The staff judge advocate will then advise HQ USAF/JACC of his action and the reason for the failure of the DATT or MAAG to adequately assist the claimant, if known.

[41 FR 50420, Nov. 16, 1976]

§ 842.3 Evidence to be submitted by claimant.

The claimant must submit competent evidence and information about the cause of the damage or injury for which claim is made, proof of ownership of property, and proof of correctness of the amount claimed.

(a) *Recoveries from third parties.* If the claimant has elected to proceed against a third party as a joint tortfeasor or has recovered from an insurer or common carrier, he reports the facts of such action and any amounts recovered for items of damage which otherwise may properly be included in the claim against the Government.

§ 842.4 Procedures for emergency payments.

(a) Who may authorize emergency payments. The Chief, Claims Division, HQ USAF, and the staff judge advocate of a major air command exercising claims jurisdiction or his deputy when designated by the MAJCOM staff judge advocate or a foreign claims commission under his jurisdiction, if designated by him, may, under 10 U.S.C. 2736 and in the manner herein prescribed, authorize an emergency payment not in excess of $1,000 to a potential claimant in advance of the submission of a claim for property damage, injury, or death resulting under circumstances covered by 10 U.S.C. 2733 or 2734 or 32 U.S.C. 715. This authority also applies to nonappropriated fund claims covered in Subpart M of this part and processed according to the procedures in Subparts D and E of this part (AFR 176-8, attachment 6).

(b) An emergency payment is not a gift or grant but an advance payment against future settlement. It is intended to relieve immediate hardship and suffering but is based on responsibility of the United States. If later a claim is disapproved, no claim is filed, or the amount of the final award or judgment is less than the emergency payment, the base judge advocate who initially processed the claim will institute recoupment action.

[41 FR 50421, Nov. 16, 1976]

§ 842.5 Transfers and assignments of claims.

Voluntary transfers and assignments of claims against the United States ordinarily are null and void under 31 U.S.C. 203; exceptions are assignments of claims by operation of law, such as to receivers or trustees in bankruptcy or administrators of estates. Provisions of the statute do not apply to claims of insurance subrogees based on involuntary assignments arising under Subpart D, H, I, K, or M of this part or when it is in the interest of the United States to waive its provisions.

[41 FR 50421, Nov. 16, 1976]

§ 842.6 Participation in prosecution of claims and disclosure of information.

(a) *Aid to claimants prohibited.* Air Force personnel are forbidden to:

(1) Represent or aid any claimant or potential claimant in the prosecution or support of any claim against the United States.

(2) Receive any gratuity, share, or interest in any claim against the United States.

(b) *Fulfillment of official duties excepted.* The prohibition against furnishing aid to a claimant does not include the assistance that claims officers and judge advocates render as an official part of their duties. On request, the claimant may:

(1) Be advised how to present a claim and helped to prepare the claim and assemble evidence.

(2) See or have returned to him or his representative any evidence he originally furnished, including documentary evidence submitted under Subpart C of this part.

(3) Be furnished information or evidence obtained during the course of a claims investigation except when barred by law or regulation. The Freedom of Information Act (Pub. L. 90-23, 5 U.S.C. 552), as implemented by AFR 11-30, permits the release of a record on request if it is not exempt under the law. Even exempt records are releasable by records custodians if no significant purpose is served by withholding them. Memorandum and other legal opinions, interoffice memoranda and correspondence, and claims officers' reports are normally not re-

leasable outside the military departments since they contain analyses, finding, opinions, and recommendations that are are internal Air Force use only. However, certain records included in a claim file may be releasable in whole or in part. For example, copies of orders, photographs, engineers' reports (with opinion or speculative portions withheld), and certain other similar factual material may be released upon request. Also, in hospital recovery cases medical records will be released only according to § 842.146. However, the provisions of AFM 168-4 and AFR 110-5 control the release of medical information relating to other claims or litigation. When charges are proper for the release of nonexempt records, see AFR 12-32.

[32 FR 14824, Oct. 26, 1967, as amended at 41 FR 50421, Nov. 16, 1976]

§ 842.7 Prejudging claims.

No Air Force personnel will, before settlement action is taken by the approving authority:

(a) Express any opinion to the claimant about whether his claim should be approved or disapproved. (Claimant may be told what Air Force policy is on sonic boom claims and engineering investigations.)

(b) Reveal to claimant the recommendations made by initiating authorities and other headquarters below the approving authority.

[32 FR 14824, Oct. 26, 1967, as amended at 41 FR 50421, Nov. 16, 1976]

§ 842.8 Action on disapproving claims.

(a) *Notifying claimants.* If a claim is disapproved in whole or in part, notify the claimant in writing and explain why the claim was disapproved. The settlement action of the authorized approving authority is final and conclusive (10 U.S.C. 2731, 2735; 31 U.S.C. 240(3), 242; cf. 10 U.S.C. 9806, and 28 U.S.C. 2672 that also require acceptance of payment). However, a claimant may request reconsideration (paragraph (c) of this section), or present a timely appeal when authorized by law (paragraph (a)(2) and paragraph (b) of this section). Notification of disapproval will be by registered or certified mail, return receipt requested, for all claims except those processed under Subpart C of this part.

(1) *Claims under Subparts C and M.* A claim may be disapproved by any designee in whole or in part. If total disapproval is warranted, a designee's authority below HQ USAF is limited by the dollar amount of the claim. Claims presented in excess of their authority must be forwarded through claims channels to the staff judge advocate or other officer who possesses such settlement authority. Claimant must be notified of the specific reasons for denial or for a substantial reduction from the amount claimed (see paragraph (c) of this section and § 842.6).

(2) *Claims under Subparts D, K, and M (Subpart D type).* The claimant will be advised of his right to appeal to the Secretary of the Air Force, or his designee, as appropriate, through the approving authority, within 60 days after the date the notice of disapproval, in whole or in part, and his right to appeal is dispatched to him. He will also be informed that no form is prescribed but the appeal should state the basis therefor and include any additional evidence that substantiates his claim.

(3) *Claims under Subpart E.* See § 842.54 (c) and (d).

(4) *Claims under Subpart G.* See § 842.83. The claimant will be advised of the action taken and the reasons for it and explain that the disapproval action is final and conclusive (however, see paragraph (c) of this section).

(b) *Appeals.* If a claimant under Subpart D, K or M of this part (Subpart D type) presents an appeal to the approving authority, he may first, if appropriate, reconsider the claim under paragraph (c) of this section; then, if a settlement cannot be reached, forward the appeal and the related claim file through claims channels for appellate action as herein provided; and in §§ 842.49, 842.132, and 842.154. Appeals will be adjudicated by those designees authorized to do so, who will notify claimants or their attorneys or representatives of their decision in writing. Such notification will include a citation of the statute under which the appeal is processed and a notification that the action taken is the final

administrative action which can be taken on the claim.

(c) *Reconsideration.* (1) The approving authority may reconsider any claim or waiver in whole or in part under 42 U.S.C. 2651-3 that he previously disapproved in whole or in part, when evidence of errors or irregularities in the submission or settlement of the claim is produced or the claimant submits new evidence.

(i) If he determines that new evidence presented by the claimant warrants it, he reverses or modifies his original decision and prepares a supplemental voucher, showing on it the voucher number of the initial payment and stating that the amount on the new voucher is in addition to the previous payment. In waiver actions he proceeds according to Subpart L of this part.

(ii) If he determines that the relief requested cannot be granted or a mutually acceptable settlement be reached and claimant has a statutory appeal right, the approving authority forwards the claim file through claims channels as provided by §§ 842.49, 842.132, and 842.159. If claimant does not have a statutory appeal right, or if he has exhausted that remedy, the file is sent to the next higher authority for review. If the supervisory authority, after reviewing the file, recommends to the initial approving authority that the relief the claimant requested be granted and if the initial approving authority disagrees, the file will be forwarded through channels to AF/JACC for resolution. In such instances the claimant will be advised that his claim file has been so forwarded. The Judge Advocate General, the Assistant Judge Advocate General or the Chief, Claims Division, Office of The Judge Advocate General is authorized to reconsider any action taken by an approving authority under Subparts C, D, G, I, K, and M of this part.

(2) UCMJ Art. 139 does not provide for appeal, by either claimant or offender, of a commander's action on claims presented under Subpart B of this part. However, the commander may reconsider his action to correct an injustice. A successor in command may reconsider an original action, even though the offender has been transferred, but only on the basis of newly discovered evidence, fraud, or obvious error of law, fact or calculation appearing on the face of the record. Transfer of an offender does not give his new commander authority to change a decision that was either favorable or unfavorable to him.

(3) Although the Foreign Claims Act provides that a settlement made by a foreign claims commission (Subpart E) will be final and conclusive for all purposes, a commission composed of the original members may reconsider its own actions or reopen, reverse, or reconsider in whole or in part any claim it has decided. However, if there has been a change in membership, the commission may reconsider a settlement only when new and material evidence is presented or when obvious errors in facts or calculation must be corrected, or fraud or collusion exists. Opinions rendered must state the reason for reconsideration. Obtaining a court decision on a claim is not in itself a sufficient basis for reconsidering a case, but the facts that resulted in the judgment may constitute the new and material evidence required. In these cases, the amount of a court judgment is not binding on a foreign claims commission's determination of damage.

(4) Although the Military Claims Act and the National Guard Claims Act authorize an appeal, the approving authority may reconsider any claim as authorized in § 842.8.

(5) Although the Federal Tort Claims Act provides that the acceptance of any award, compromise, or settlement will be final and conclusive on the claimant, the approving authority may reconsider any claim that he previously disapproved, in whole or in part, provided the request for reconsideration complies with paragraph (c)(1) of this section and is received within six months of the original settlement action and prior to the commencement of suit. Final action on timely requests for reconsideration will be communicated to the claimant as provided in § 842.8. Note that upon a timely filing of a request for reconsideration under this act the agency shall have six months from the date of

80-112 O—82——17

filing such request in which to make final disposition of the claim, and the claimant's option to bring suit under 28 U.S.C. 2675(a) shall not accrue until six months after filing of a request for reconsideration (28 CFR 14.9).

(6) For claims under the Military Personnel and Civilian Employees' Claims Act (see Subpart C of this part) the approving authority may reconsider any claim under this Subpart provided reconsideration is requested within a reasonable time. Six months is considered a reasonable time but this is flexible if the approving authority determines that it would be manifestly unjust to impose a time limit for reconsideration when other factors warrant reversal or modification of the original action.

[41 FR 50421, Nov. 16, 1976, as amended at 44 FR 35220, June 19, 1979]

Subpart B—Article 139 UCMJ Claims (10 U.S.C. 939)

SOURCE: 41 FR 50422, Nov. 16, 1976, unless otherwise noted.

§ 842.10 Scope.

(a) This subpart sets forth the standards to be applied and the procedures to be followed in processing claims cognizable under Article 139.

(b) This subpart applies to claims for damages to (or loss or destruction of) property owned or in the lawful possession of an individual, a business, a charity, a state or local government, or a service member, that has been willfully damaged or destroyed or wrongfully taken by military personnel of the Air Force.

§ 842.11 Definitions.

(a) *Willful damage.* Damage which is inflicted intentionally, knowingly, and purposely, without justifiable excuse, as distinguished from damage which is caused thoughtlessly or inadvertently as in simple negligence.

(b) *Wrongful taking.* Any unauthorized taking or withholding of property, not involving breach of contractual or fiduciary relationships, with intent to deprive the owner or person in lawful possession of his property temporarily, permanently, or for an indefinite period.

(c) *Board of officers.* The term "board of officers" as used in this subpart includes an investigating officer appointed under appropriate regulations.

§ 842.12 Claims payable.

Claims payable under Article 139, Uniform Code of Military Justice, and this subpart are limited to:

(a) Those for damage to or loss or destruction of property caused by riotous, violent, or disorderly conduct, or acts of depredation, by a member or members of the Air Force showing such reckless and wantom disregard of the property rights of others that willfully damage or destruction may reasonably be implied.

(b) Claims for property wrongfully taken. A loss through larceny, forgery, embezzlement, fraud, misappropriation, and similar offense is compensable if a wrongful taking of property is involved.

(c) Claims for damage to or loss or destruction of property that result from an act or omission that occurred outside the scope of a member's employment which are cognizable under other claims statutes may be processed under this regulation, in whole or in part, if specific authority has been obtained from HQ USAF/JACC (Subpart C, E, G, or M of this part).

[41 FR 50422, Nov. 16, 1976, as amended at 44 FR 35220, June 19, 1979]

§ 842.13 Claims not payable.

The following claims are not compensable under this part:

(a) Claims resulting from simple negligence.

(b) Claims for personal injury or death.

(c) Claims resulting from acts or omissions of military personnel while acting within the scope of their employment.

(d) Claims of insurers (subrogation).

§ 842.14 Limitations on application.

(a) *Time limitations.* In order for a claim to be considered under this subpart, a complaint must be submitted within 90 days of the date of the inci-

dent out of which the claim arose, unless the commander acting on the report determines that good cause has been shown for the delay in making compliant. The commander's determination that good cause has not been shown is final.

(b) *Limitation on amount of assessment.* No assessment in excess of $500 is made against the pay of an offender for a single act or incident without approval of HQ USAF/JACC.

(c) *Only direct damages considered.* Assessment is made only for direct damages. Indirect, remote, or inconsequential damages are not considered under this subpart.

§ 842.15 Procedure.

(a) *Action by claimant.* Any person who believes that personal property has been willfully damaged or wrongfully taken by a member or members of the Armed Forces of the United States may complain (orally or in writing) to the military organization or unit of the offending member or members or to the nearest military installation. Before final action, such complaint or claim must be presented in writing (in triplicate) signed by the claimants, or their authorized agent or attorney.

(b) *Voluntary Restitution.* In many instances, members of the military services who cause damage through their off-duty activities welcome an opportunity to make restitution without the complainant's demand for compensation becoming a matter of official concern. Nothing in Article 139 or this chapter prevents an offender from making a mutually-satisfactory arrangement with an injured party for restitution. Acceptance of payment by the complainant from the offender or offenders of an amount in full satisfaction and final settlement of the matter, bars further recovery under this chapter. Any amount paid by an offender in partial satisfaction of the claim is deducted from the amount approved by the commanding officer.

Subpart C—Personnel Claims (31 U.S.C. 240–243)

§ 842.20 Scope of subpart.

This subpart tells how to administratively settle and pay claims presented by Air Force military and civilian personnel for personal property damaged or lost incident to their service.

[33 FR 2385, Jan. 31, 1968]

§ 842.21 General provisions.

(a) *Governing statute.* 31 U.S.C. 240–242 (Military Personnel and Civilian Employees' Claims Act of 1964, as amended, Sept. 15, 1965 (79 Stat. 789)) provides that claims may be considered when the personal property is reasonable, useful, or proper and the loss, damage, destruction, capture, or abandonment was incident to service. If a claim is cognizable under this statute, it must be processed under this subpart; if doubt exists, the approving authority makes final determination.

(b) *Proper claimants.* All active duty Air Force military and civilian personnel and AFRes and ANG military personnel engaged in inactive duty training under Federal law, their authorized agents and legal representatives, and their survivors in following order of precedence: (1) Spouse; (2) child or children; (3) father, mother, or both; (4) brother, sister, or both. Air Force retired military personnel, if damage is in connection with last movement of personal property incident to service.

(c) *Statute of limitations.* Claim must be presented in writing within 2 years after it accrues, except during war or armed conflict, or if war or armed conflict occurs within the 2-year period following accrual, when claimant shows good cause, the claim may be presented within 2 years after the cause ceases to exist but not more than 2 years after termination of the war or armed conflict. A claim accrues when loss or damage is or should have been discovered by claimant even though such loss or damage occurred at a prior time.

(d) *Right of appeal.* Action of approving authority is final, but he may reconsider a decision.

§ 842.22 Presenting cognizable claims.

(a) *Presenting claims for separate losses.* A claim may be presented for each loss or damage incident. For example, if an automobile, hold baggage, and household goods are separately transported and damage or loss occurs, each incident may be used as the basis for a separate claim, and each incident is covered up to the $15,000 maximum payable under the statute. However, a claimant's loss or damage to personal property from separate incidents may be combined and presented as a single claim, if the total payable does not exceed $15,000 except claims resulting from ocean transportation of privately owned vehicles. These claims should be filed separately.

(b) *Emergency advance payment.* (1) In situations when a claimant has sustained extensive loss or damage in a single incident and has experienced hardship as a result, he may present a claim for readily provable losses, be paid, and later amend his claim when proof of damage or loss to other portions of his claim has been established. The approving authority settles the partial claim up to the delegated payment authority possessed and returns the file to the claims officer for the claimant to present the balance of his claim. When the balance of claim, is finalized, the advance payment is entered on the AF Form 176. When the amount of the total award exceeds the authority of the original approving authority, forward the file to the next higher approving authority for action.

(2) In situations when a claimant has sustained extensive loss or damage in a single incident and submits his entire claim, if a hardship arises, a partial settlement of the claim may be made in the amount of the approving authority's delegated authority before forwarding the file to the next higher approving authority. When the balance of the claim is finalized, the amount of the total award, including the emergency advance payment, is entered on the AF Form 176.

[41 FR 50423, Nov. 16, 1976]

§ 842.23 Claims cognizable under this subpart.

Claims for tangible personal property (including money) lost or damaged incident to service are cognizable and payable under this chapter, but only for the types, quantities, or amounts that the approving authority determines to be reasonable, useful, or proper under the circumstances at the time and place of the loss. In making his decision, the approving authority will consider the type and quantity of property involved, the circumstances attending its acquisition and use, and whether possession or use by the claimant at the time of the loss or damage was incident to service.

(a) *Borrowed property.* Property borrowed from others may be the subject of a claim. For example, if one airman borrowed a suitcase from another to transport personal property while on TDY and the suitcase was damaged or lost en route, the borrower would be the proper claimant. However, this provision does not cover property being transported merely to accommodate another. For example, property damaged while being transported by one person for another merely to avoid a weight restriction is not cognizable under this subpart.

(b) *Transportation losses.* Cognizable transportation losses include those incident to transportation or storage pursuant to orders, travel under orders, and duty performance, including losses to property in the custody of a common or contract carrier or other commercial firm under contract with the Government, including transportation or storage under the commuted rate method, a Government agency, or a claimant traveling in a private or public conveyance in duty performance. Claims for loss or destruction of property where stored at a commercial facility for the personal convenience of a claimant and at his own expense are not payable under this subpart. If, however, such storage at the claimant's expense was not for personal convenience but instead incident to his service, such as after the expiration of authorized SIT while awaiting imminent assignment to Government quarters, or when private storage of prop-

erty is necessitated by military reasons such as extended continuous TDY periods for which no entitlement for storage at Government expense exists, the claim would be payable.

(1) Although the Joint Travel Regulations (JTR) for the Uniformed Services do not usually authorize property to be shipped on orders if it was acquired after the effective date of orders, the Air Force does not disapprove claims for household goods which were part of the property shipped.

(2) Normally, no more than $100 may be approved for standard vehicular tools and related emergency equipment of the type generally shipped in an automobile. However, if no household goods are shipped and other types of automobile tools and emergency equipment are shipped with the car, the $100 limitation will not be applied to the special tools and equipment, and the shipper may be awarded additional compensation for their reasonable and proper value.

(3) Actual released valuation of household goods is shown on the Government bill of lading. Exception: Released valuation for CONUS interstate shipments not be shown on the Government bill of lading when the governing Military Rate Tender provides that shipments will be deemed released at a value of 60¢ per pound per article. If the owner requests a valuation in excess of the prescribed minimum of 60¢ per pound per article, this will be annotated on the Government bill of lading.

(4) Claims for depreciated value of missing property that is replaced by necessity when a shipment is lost for a long period of time are payable. If the replacement of items essential to everyday use is necessary, the depreciated value can be awarded even though missing items are delivered before claim is presented or perfected. The approving authority will determine which items are essential and whether they could have been borrowed from Government sources.

(c) *Losses resulting from marine or aircraft incident.* Losses experienced by crew members and passengers in marine or aircraft incidents while in a duty status are cognizable. They may include jettisoned baggage, items of clothing being worn at the time of the disaster, a reasonable amount of money, reasonable and proper amounts of jewelry, and other lost items. Losses by Air Force members or employees in leave status are payable only if they occur during authorized Government transportation.

(d) *Losses due to enemy action, public service or civil disturbance.* Such losses may include:

(1) Those due to enemy action; action to prevent capture or confiscation; or combat, guerrilla, brigandage, or other belligerent activity, regardless of whether the United States was involved; or unjust confiscation by a foreign power or its nationals.

(2) Action by the claimant to quiet a civil disturbance, alleviate a public disaster, or save human life or Government property.

(3) Those due to riots or civil disturbances which result in incident to service personal property losses. This includes isolated incidents.

(e) *Loss of money.* Cognizable money losses are those resulting from:

(1) Nonavailability of local commercial facilities or when existing facilities are not generally used by U.S. personnel.

(2) Failure of Government officials to either apply as directed or return personal funds turned over to them, because of their apparent authority to receive them, for safekeeping; deposit in Uniformed Services Savings Deposit Program; transmission by personal transfer account; purchase of U.S. bonds or postal money orders; conversion into military payment order, Government check, or other kind of currency; or other authorized disposition. When a Uniformed Services Savings Deposit claim is determined payable, the claimant is entitled to the principal sum deposited, plus interest accrued to the time the claim is approved (Pub. L. 89-538 (80 Stat. 347)).

(3) Theft from assigned quarters in the United States, any quarters outside the United States, or from other authorized places.

(4) A marine or aircraft incident.

(5) Enemy action or public service.

(6) Theft from the person of the individual in an area in which he is re-

quired to be, which theft, because of the characteristics of the area and its population, cannot be avoided by the exercise of due care. Example: In order to report to duty from his quarters, the claimant must travel through a high crime area where he is robbed. If, however, the claimant subjects himself to unnecessary risks by not utilizing the means of security available or avoiding, when he can, placing himself in jeopardy, then he should be considered to have assumed the risk of loss.

(f) *Damage to or loss.* (1) Privately owned automobiles and other motor vehicles and their component parts (including tools) when shipped: To, from, or between overseas areas under permanent change of station orders; on a space required reimbursable basis in connection with oversea travel under orders; or as a replacement vehicle under the provisions of Pub. L. 89-101 (79 Stat. 425) (JTR, volume 1, chapter 11, paragraph M11006) (including on-loading and off-loading operations). Under special or unusual circumstances, damage or loss of component parts (including tools) that have been accepted by the Government for shipment may be recommended to the approving authority for consideration as a transportation loss.

(2) House Trailers and Contents in Shipment. In the absence of clear evidence of structural or mechanical failure for which the manufacturer can be held liable, the service member will be reimbursed for damage to a house trailer transported pursuant to JTR, paragraph M10003. All claims for loss or damage to contents of a house trailer must be supported by a copy of the inventory of such contents (DD Form 1412) prepared at the time the trailer was shipped and by a statement of the condition of the trailer before shipment, if appropriate (JTR, volume 2, chapter 7, paragraph C7100-5 and volume 1, chapter 10, paragraph M10003).

(g) *Losses at quarters or other authorized places.* Damage to or loss of property caused by fire, lightning, flood, hurricane, typhoon, tornado, cyclone, explosion, earthquake, similar catastrophies and disasters, or other unusual occurrences or by theft or vandalism, while located at quarters, other authorized places, or, in respect to privately owned vehicles, anywhere on a military installation. As used herein, quarters are defined as:

(1) Housing accommodations wherever situated, which are assigned to the claimant or are otherwise provided in kind by the Government including substandard quarters and trailers for which the claimant pays the Government a fixed rental while drawing his BAQ and privately owned mobile homes for which parking space is provided by the Government on base.

(2) Transient housing accommodations, wherever situated, such as hotels, motels, guest houses, transient barracks, or other place of lodging occupied by the claimant in conjunction with the performance of temporary duty or similar authorized military assignment of a temporary nature.

(3) Housing accommodations occupied by the claimant outside the United States but not assigned or otherwise provided in kind by the Government. If the claimant is a civilian employee who is a local inhabitant, a claim arising out of damage to or loss of his property located at his quarters is not cognizable unless the quarters were assigned or otherwise provided in kind by the Government.

(4) Garages, carports, or attached buildings and driveways connecting the buildings with a street or thoroughfare and parking lots adjacent to quarters, if specifically assigned for use by occupants of those quarters. This includes also parking places on the street at assigned quarters and, in overseas areas, at economy quarters when the space is reserved and designated for the use of such occupants or on the street in the immediate vicinity of such quarters where a space is not so reserved.

(5) The area immediately around and adjacent to such quarters in respect to those items of property which cannot be or commonly are not stored within the living area of such quarters. Nonexclusive examples of such property are motorcycles, motorbikes, scooters, bicycles, lawn mowers, garden equipment and furniture, boats, etc. As used herein, the term "other authorized places" means a

place authorized or apparently authorized by the Government to receive or store property such as a warehouse, office, hospital, baggage holding area, and any area on a military installation for the parking and/or storage of privately owned vehicles, including automobiles, motorcycles, bicycles, utility trailers, camping trailers, boats, boat trailers, etc. The term, military installation, is to be construed broadly to include any fixed real estate controlled and used by military activities or the Department of Defense.

NOTE: Handle claims for losses at offices or place of duty by local inhabitant employees the same as those of active duty Air Force military and civilian personnel.

(h) *Claims arising from theft.* (1) As indicated in paragraphs (b), (c) and (f) of this section, claims for the loss of property due to theft are cognizable and payable under this chapter. Before any such claim can be paid, however, it is necessary to determine whether the loss was "caused wholly or partly by the negligent or wrongful act of the claimant, his agent, or his employee." In this respect, the claimant's failure to exercise reasonable care to protect and secure the property which had been stolen can be considered negligence. What amounts to reasonable care varies with the facts of each situation. What would be reasonable with one item of property may very well be insufficient with another. Similarly, what would be reasonable in one part of the world may amount to a complete and wanton disregard for the security of the same item in another area. Each claim, therefore, has to be decided on its own facts, and, for the most part, a stock formula for making such decisions is not possible. Instead, the approving authority will have to determine based upon the value of the property, its portability, its securability, the availability of security facilities, and the known risk of theft in the area whether or not the claimant exercised due care.

(2) There is, of course, the necessity of establishing that the theft in fact occurred. Claims for the loss of items that mysteriously disappeared cannot be paid. There must, therefore, be evidence of larceny, burglary, robbery, or housebreaking in order for a claim to be considered. However, in recognition of the fact that such evidence may not be readily obtainable, especially in theft from barracks or barracks type facilities cases where for example more than one individual occupies a room or the keys to such room are not strictly accounted for, this evidence may be completely circumstantial. For example, if the claimant can prove that he possessed the property, that it was in his room when he left, that it was properly secured, that it was missing upon his return, and that he had not disposed of it by sale, gift, pawning, etc., it may be inferred that the property was in fact stolen.

(3) It is commonly recognized that money and certain types of property are particularly susceptible to theft. Items such as cameras, jewelry, watches, radios, tape recorders, and other small items of substantial value are readily marketable with only a slight possibility of any diminution in value. The individual who possesses such property is expected to realize this and be especially careful in protecting it. In respect to cash, the individual is not expected to have large amounts of it in his quarters. In most instances, there should be very little reason to have more than 1 month's pay, including allowances, at any one time. Circumstances may be such that would justify having a larger amount, such as just prior to a PCS move, immediately before an extended TDY, in preparation for extensive shopping for a large item or items, and so forth. Even in those instances, however, the claimant should have some reason as to why the cash could not have been converted to traveler's checks, money orders, or deposited in a commercial banking facility. If cash or the other valuable items are not in the immediate possession of the claimant or his agent, due care is required to have them secured within an area that is itself secure. To do less would usually constitute negligence and preclude reimbursement for the resulting loss.

(4) In considering claims for theft from the person it must be established that the theft occurred by use of force, violence, or threat to do bodily harm, or by snatching or pickpocketing and at the time of the theft the

claimant was either on a military installation, utilizing a recreational facility operated or sponsored by the Department of Defense or any agency thereof, or in the performance of official duty including traveling between his place of duty. The theft must have been reported to appropriate police authorities within 24 hours or as soon thereafter as reasonable or practicable. Additionally, it must have been reasonable under the attendant circumstances for the claimant to have had on his person the quality and quantity of the property allegedly stolen. In respect to cash, although no arbitrary limit can be established, it would be generally unreasonable for the claimant to possess more than one half of one month's pay. If, however, there is some cogent reason for him to have more, that is, imminent reassignment, TDY, R&R, and so forth, then consideration can be given to compensating him for up to the full amount of his loss. To be compensable, a theft loss between quarters and place of duty must occur while the claimant is en route between those points without deviation for personal purposes. If claim for theft from person falls within the purview of Article 139, UCMJ and Subpart B of this part can be expeditiously and successfully processed either in whole or in part under that chapter, it should be processed according to § 842.15.

NOTE: Foreign indigenous employees are not covered unless the theft occurs on a military installation.

(i) *Clothing and accessories worn on the person.* Claims for such items may include eyeglasses, hearing aids, or dentures, but not items of Government property. (See § 842.28 for replacement in kind authority.)

(j) *Damage to, theft of, from, or destruction of privately owned vehicles used in the performance of military duty.* When a vehicle owned by a member is used with specific advance permission of the appropriate supervisor in the performance of a military duty, its damage, loss, or destruction is cognizable under this chapter. Such use must not be for the convenience of the owner but must be occasioned by the nonavailability of official transportation for the particular trip in question. Further, the rules regarding insurance in § 842.24, rule 7 and TDY or PCS travel in § 842.24, rule 14, apply to this type of claim. Travel between quarters and place of duty and parking incident thereto must not constitute use in the performance of duty under this chapter. Claims approving authorities must require adequate documentation of the permission for the specific use and of the nonavailability of official transportation prior to settlement of such claims. Further, any deviation from the principal route or purpose of the travel must remove the entire trip from consideration under this subsection.

[41 FR 50423, Nov. 16, 1976]

§ 842.24 Cognizable claims not payable.

Although otherwise within the scope of this subpart, the following types of claims are not payable:

Claims for	Rule (A)	Remarks (B)
1	Small items of substantial or extraordinary value including money shipped with household goods or as unaccompanied baggage (includes stamp and coin collections and trading stamps) that are missing on delivery of shipment unless the items have been specifically declared and described at the time of application for shipment of personal property (AFM 75–4, para. 1–7, Nov. 13, 1970). (See note.) (See annotation.).	Articles easily lost, damaged, or pilfered (including watches and expensive jewelry such as rings, pins, broaches, necklaces, and bracelets) should be carried or shipped as high-value items—for this purpose sterling silver flatware, hollowware, costume jewelry, and silver service are not items of extraordinary value and require no special handling unless shipped in a house trailer.
2	Articles acquired, purchased, possessed, or transported for persons other than the claimant or members of his immediate family except as reasonable bona fide gifts.	This category includes articles acquired at the request of others and articles for sale or use in a private business enterprise.

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Claims for	Rule (A)	Remarks (B)
3	Intangible property	A chose in action, or evidence thereof, such as bankbooks, promissory notes, stock certificates, bonds, bills of lading, warehouse receipts, baggage checks, insurance policies, money orders, and travelers' checks, is not a basis for payable claims.
4	Government property	Includes property furnished through the Armed Forces clothing monetary allowance system or through issue (AFM 67-1); except, when military clothing is lost or damaged in shipment incident to a service member's last move before release from active duty or when items of clothing are in excess of the quantity required under the monetary allowance system.
5	Enemy property	
6	Property at quarters within the United States that were not assigned or otherwise provided in kind to the claimant, including theft.	
7	Losses recovered or recoverable from an insurer	Except if loss was not recovered and is no longer recoverable and the reason it is not recoverable is not the knowing or intentional act or omission of the claimant, his agent, or his employee. Claim should then be processed in same manner as if claimant did not have insurance.
8	Losses not recoverable from carrier because of negligence of claimant, or his agent or employee.	
9	Property for which losses, or any portion of losses, have been recovered or are recoverable pursuant to contract.	Pursue action against insurer if insurance still in effect.
10	Damage to property caused by negligence of claimant.	Includes damage or loss of personal property caused in whole or part by lack of due care, negligence, or wrongful act of the claimant, his wife or other agent or an employee while acting within the scope of his employment.
11	Theses or other similar items	A thesis, or other similar item, is compensable only to the extent of the out-of-pocket expenses incurred by the claimant in preparing the item, such as the cost of the paper or other materials therein. Compensation is not authorized for the time spent by the claimant in the preparation thereof nor for the literary value of the item.
12	Fees for obtaining repair estimates in connection with submitting a claim under this chapter.	Exception: When the approving authority determines that the claimant could not obtain an estimate without paying a fee, he will allow an amount that he determines to be reasonable in relation to the value of items or cost of repairs, but only if the fee will not be credited to the cost of repair when the work is accomplished.
13	Items acquired, possessed, transported, or stored in violation of any U.S. Armed Force directive or regulation.	
14	Motor vehicles	If damage to claimant's vehicle occurred while used on TDY or PCS, with travel by POV permitted by orders, but see paras. 6-3d(3) and 6-3g.
15	Items fraudulently claimed	When investigation discloses that a claimant, his agent, or employee has intentionally misrepresented the cost, condition, repair cost, etc. of any item claimed, that item will be disallowed in its entirety even though it sustained actual damage. However, the remainder of the claim, if proper, will be paid. This action will not preclude investigation and action under UCMJ, if warranted. NOTE: A mere mistake in stating the amount of damage or loss will not be considered intentional misrepresentation for claims purposes.
16	Agent or attorney fees	
17	Inconvenience expenses	These include additional expenses to the claimant incurred as a result of a delay in the transportation of his property, the need to travel to a port to drop off or pick up a vehicle, etc.

NOTE: If small items of substantial value are lost or destroyed because of fire, flood, hurricane, sinking of vessel, or other serious occurrence, the foregoing is not applicable. Items of extraordinary value, except bulky items, are not payable unless declared and described at time of shipment.

[41 FR 50425, Nov. 16, 1976, as amended at 44 FR 35220, June 19, 1979]

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§ 842.25 Claims not cognizable.

(a) Any claim that did not arise incident to service.

(b) Subrogation claims.

(c) Assigned claims.

(d) Conditional vendor claims.

(e) Portable housing located off base in foreign countries except for house trailers that can be readily put in motion.

(f) Claims by non-Air Force personnel, such as Red Cross employees, USO performers, contractor employees (including technical representatives), nonappropriated fund employees (but see Subpart M, Civil Air Patrol and AFROTC members and cadets). However, a member of another United States Armed Force may present a claim to the Air Force for loss of or damage to personal property incident to his service under 31 U.S.C. 240–242. The claims officer investigates such claims locally under provisions of this chapter and forwards the completed file direct to the nearest installation of the service concerned. He includes in the file appropriate recommendations and all required supporting documents, including evidence pertaining to recovery from a carrier, insurer, or other third party.

(g) Charges for labor performed by owner.

(h) Financial losses sustained due to modified or cancelled PCS orders.

(i) Expenses of in-transit (en route) repair of house trailer.

(j) Inconvenience expenses. (See § 842.24, rule 17.)

(k) Losses of or damage to real property.

(l) Loss of use of personal property.

(m) Cost of food and lodging while awaiting shipment.

(n) Attorney fees.

(o) Cost of preparing claim.

(p) Cost of personal property insurance premiums.

[41 FR 50426, Nov. 16, 1976]

§ 842.26 Actions to be taken when there is tariff liability or private insurance.

(a) *By claimant.* (1) Report of the base claims office for assistance in preparing a written demand on the warehouseman, carrier, or insurer.

(2) Present claim against the Government simultaneously with demand against the contractor or insurer.

(3) Report any offer from the contractor or insurer to the base claims office.

(b) *By Staff Judge Advocate.* (1) Assist the claimant by preparing a written demand on the contractor or insurer for claimant's signature.

(2) With the making of a demand against a warehouseman or carrier, process the claim against the Government without delay. Insure that claim is not held in abeyance pending response from debtor unless there is good cause and unreasonable hardship will not result to claimant. Deduct recovery from award when carrier has paid claimant, or carrier has indicated that check will be mailed to him, or claimant without justifiable reason has failed to take exception and report carrier damage within a reasonable time and there is a lack of any evidence to rebut the presumption created thereby.

(3) After a demand is made against the claimant's insurer, hold the claim against the Government in abeyance pending insurer's response. If insurer denies liability, or if further negotiation will cause hardship or undue delay, process and forward the claim to approving authority for settlement.

(i) If the claimant's insurer makes an offer that the claims officer considers reasonable, claimant should be advised to accept it. If such advice is accepted, no part of the balance of the claim may be disapproved on the ground that additional compensation might have been received from the insurer.

(ii) If the insurance company's offer appears inadequate, claimant should be advised not to accept it. Claim should then be processed to a conclusion against the Government and the insurance claim pursued under the assignment of rights to the Government. If claimant accepts offer against such advice, a deduction of the amount that would have been recoverable should be made from the award.

[41 FR 50426, Nov. 16, 1976]

§ 842.27 Transfer and assignment of rights.

(a) When he executes DD Form 1842, the claimant assigns to the United States, to the extent of any payment he accepts, all his rights, title, and interest in any claim against any carrier, contractor, warehouseman, insurer, or other party arising from the incident on which his claim against the United States is based. When requested, he must also furnish any evidence the U.S. Government may require to enforce the claim.

(b) The claimant must remit to the United States any award he receives from any such party up to the amount of the award he accepted from the United States. When the claims officer receives the remittance, he transmits it by DD Form 1131, "Cash Collection Voucher," to the Air Force accounting and finance office. (See § 842.31 for property recovered by claimant.)

[41 FR 50426, Nov. 16, 1976]

§ 842.28 Replacement in kind.

(a) When a claim is cognizable and payable under this subpart, the commander of the organization to which the claimant is assigned or attached may direct that lost or damaged personal property be replaced in kind from available Air Force stocks.

NOTE: Disapproved claims cognizable under AFM 67-1 may not be reopened for consideration under this paragraph.

[41 FR 50426, Nov. 16, 1976]

§ 842.29 Claims procedure.

(a) *Claims payable for $500.00 or less.* (1) The investigation will be made in a manner which will develop most expeditiously, the facts necessary to determine whether the claim is meritorious and in what amount. Any evidence that is required may be obtained by telephone, from incident reports, or other forms of hearsay. Wide latitude is hereby given to the claims officer to determine when the United States is liable for the loss or damage, that the claimant is a proper claimant, and that the amount he recommends to the approving authority is either agreed to by him, or the claims investigator, with the claimant (repairs under $100.00 per item) or is reasonably substantiated. The approving authority's signature in Part II, DD Form 1842, will signify that he is convinced that the claim is properly settled and that all statutory requirements have been met.

(2) In those claims where there is a related claim in favor of the United States, there will still be a need for documentation. However, documentation of the Government claim should not delay payment of the claim against the Government. Such documentation may be accomplished at a later date, subsequent to payment of the claimant. In fact, if a claim is processed under this procedure, the claimant should be advised that even after he is paid, he will be required to provide any additional evidence that is needed to assist the Government in pursuing its claim.

(b) *All other claims under this subpart; investigation by claims officer.* Follow the procedure prescribed in Subpart A. However, when the cost of repair or damage does not exceed $100.00 an item and the claims investigator has actually inspected the damaged property, either the claims inspector or the claims officer and the claimant may agree on a reasonable amount to be claimed for repairs on an individual item in lieu of an independent estimate or appraisal by a qualified repairman. In such cases, the claims officer will certify that the property has been examined and that, in his opinion, the amount agreed upon is a reasonable allowance for the cost of repairs.

[41 FR 50426, Nov. 16, 1976]

§ 842.30 Settlement authority.

(a) Personnel claims for more than $15,000 may be presented but cannot be administratively paid in excess of $15,000.

(b) The Secretary of the Air Force or his designees may settle personnel claims against the United States payable for $15,000 or less. The Secretary has delegated his authority to settle such claims to the following persons:

(1) *Claims payable for $15,000 or less.* Within HQ USAF:

(i) The Judge Advocate General.

(ii) The Assistant Judge Advocate General.

(iii) Chief, Claims Division.

(iv) Assistant Chief, Claims Division.

(2) *Claims Payable for $10,000 or less.* Staff Judge Advocates and the Director or Chief of Claims when designated by the Staff Judge Advocate of Major Commands, or his deputy when designated by name by the MAJCOM staff judge advocate.

(3) *Claims Payable for $7,500 or less.* Staff Judge Advocates of General Court-Martial Jurisdictions or their deputy when designated by name by the MAJCOM staff judge advocate.

(4) *Claims Payable for $2,500 or less.* The staff judge advocate or his deputy when designated by name by the MAJCOM staff judge advocate of each Air Force base, station, and fixed installation.

(5) *Disapproval Authority.* A claim may be disapproved by any designee in whole or in part. If total disapproval is warranted, a designee's authority below HQ USAF is limited by the dollar amount of the claim. Claims presented in excess of their authority must be forwarded through claims channels to the staff judge advocate or other officer who possesses such settlement authority. Claimant must be notified of the specific reasons for denial or for a substantial reduction from the amount claimed.

(c) The Judge Advocate General may withdraw, reduce and restore the maximum amounts that any designee is authorized to settle and pay. The designees in paragraphs (b)(2) and (b)(3) of this section may also withdraw, reduce and restore the settlement authority of any designee within his jurisdictional area, but he must notify HQ USAF/JACC, Wash., D.C. 20314, of all withdrawals and restorations.

[41 FR 50426, Nov. 16, 1976]

§ 842.31 Property recovered by claimant.

When the claimant executes the DD Form 1842, he is advised and agrees that if any of the property for which the claim is made is later recovered he will notify AF/JAGC immediately. If he recovers property after his claim has been paid, the claimant may:

(a) Accept all of the property and return the payment awarded to him by the Air Force.

(b) In the presence of the claims officer, examine the property and state his intention to keep certain items for which he has been paid. The claims officer will then obtain from the approving authority, or the office where the closed claim is filed, the amount paid on each item the claimant has elected to retain. The claimant then forwards, through the claims officer, to the approving authority a check or money order for the total amount, payable to the Treasurer of the United States.

(c) Disclaim any interest in the property and request that it be turned over to the Defense Property Disposal Office. (10 U.S.C. 2575(a)).

[41 FR 50427, Nov. 16, 1976, as amended at 44 FR 35220, June 19, 1979]

§ 842.32 Items turned in for salvage.

If an item on which an award is based is determined to have salvage value:

(a) *The approving authority.* (1) Notifies the claimant in writing that the item must be delivered to the Defense Property Disposal Office as a condition to payment awaiting turn-in. EXCEPTION: If claims officer had determined that the cost to turn the property in to Government salvage would exceed its monetary value, he may ask the claimant to discard it.

(2) Advises the investigating claims officer of his determination and sends him reproduced pages of DD Form 1845 with the items to be turned in to salvage circled in red. If only one item is to be turned in, describe it in the transmitting letter; a copy of DD Form 1845 is not necessary.

(b) The claims officer, upon receipt of approving authority's notice.

(1) Completes DD Form 1345-1 or other form as prescribed by the local property disposal office and makes sure that copies accompany the property to the local property disposal office.

(2) Determines whether Government transportation is necessary to carry the item(s) to the local Defense Property Disposal Office activity; if so, DD

Form 1348-1 is authority for transportation.

(3) Determines necessary action if the description of property on DD Form 1845 does not agree with the item to be turned in.

(c) The Defense Property Disposal Office uses DD Form 1348-1 to receipt for property turned in for salvage, returns two copies to the delivering agent, and turns one copy over to the claims office for inclusion in the claim file.

[41 FR 50427, Nov. 16, 1976, as amended at 44 FR 35220, June 19, 1979]

Subpart D—Claims Under the Military Claims Act (10 U.S.C. 2733)

§ 842.40 Scope of subpart.

This subpart tells how to administratively settle and pay certain claims against the United States for damage to or loss of property and for personal injury or death caused by Air Force military or civilian personnel acting within the scope of their employment or otherwise incident to Air Force noncombat activities.

§ 842.41 The progressive pattern of the Military Claims Act.

The Military Claims Act of July 3, 1943 (57 Stat. 372) generally replaced previous claims legislation, except that pertaining to personnel claims. It gave the Army worldwide authority to settle and pay claims for property damage, personal injury, or death caused by military personnel or civilian employees of the Army engaged in the scope of their employment and claims arising from noncombat activities of the Army. It was broader in scope than the present law, applying to claims "wherever arising," except those cognizable under the Foreign Claims Act (55 Stat. 880) and military and civilian personnel claims for damage to or loss of their personal property, personal injury, or death incident to their service. The Military Personnel Claims Act of 1945 (55 Stat. 255) amended the Military Claims Act by removing the prohibition against paying property damage claims of military and civilian personnel in US military departments. Later enactment of the Federal Tort Claims Act (60 Stat. 842) barred payment of tort claims under the Military Claims Act when the claim is cognizable under the Tort Act (10 U.S.C. 2733(b)(2)). Since then, additional legislation and codification have authorized the military departments to make payments up to $25,000 and, if approved in excess of $25,000 the claimant may be paid $25,000 including any emergency payment, and the excess reported to the Congress for its consideration. The Military Claims Act is an act of grace. A claimant acquires no legal or equitable rights merely because his injuries or damage are cognizable under it.

[41 FR 50427, Nov. 16, 1976]

§ 842.42 General analysis.

(a) In addition to certain specific bailment situations (see § 842.43(b), rules 3 and 4), the Military Claims Act is primarily a mixture of two entirely different bases for U.S. claims responsibility. The first is similar to the orthodox respondent superior principles represented in the Federal Tort Claims Act (28 U.S.C. 2671-2680). The second is the so-called noncombat activities grounds of responsibility that has no precise common law analogue. In some respects, the noncombat activities concept is more limited than common law absolute liability theories, yet more extensive than the ordinary res ipsa loquitur doctrine. It provides a means of compensation for damage that results from certain authorized military activities of U.S. forces. The Act does not define or elaborate upon the term noncombat activities. The ambit of that term is left to service regulations. It has never been construed to include all activities of the Air Force or those direcly related to its combat operations. A much more limited definition has been applied that includes the type of claims formerly covered by the laws it repealed. In general, the events that are properly considered under the noncombat activities provision of the Act relate to actions that are peculiarly military in character, have little parallel in ordinary civilian pursuits, and historically have been considered as furnishing the proper basis for the

payment of claims. Some examples of noncombat activities are maneuvers and special field exercises; the practice firing of heavy guns and missiles; practice bombing; the operation of military spacecraft and aircraft, including the generation of sonic booms; use of military balloons; and the movement of combat vehicles or other equipment designed for military use, such as prime movers, amphibious vehicles, and other vehicles not primarily designed or used for civilian purposes.

(b) The noncombat activities provision is the only means by which the Air Force may settle many claims that arise from its activities. Since in missile and aircraft operations (including sonic booms) a claimant would have difficulty establishing negligence of Air Force personnel, he need not allege or prove negligence or a wrongful act by military or civilian personnel to recover for damage or injury resulting from noncombat activities. Nor must he allege and prove that the military or civilian personnel who caused the damage or injury were acting within the scope of their employment. He need prove only a causal connection between an authorized noncombat activity and his injury or damage.

(c) In the past, claims arising out of aircraft accidents and incidents normally were processed under the noncombat activities provision of the Act. Since the enactment in 1966 of the expanded administrative settlement authority under the Federal Tort Claims Act, a policy revision has been effected. Henceforth, the claims involving aircraft and missile accidents and incidents, which occur within geographical areas there is clear evidence of causal negligence on the part of the Air Force, and it appears that the defense of discretionary function would not be asserted by the Government, will be settled under the Federal Tort Claims Act, which is preemptive (10 U.S.C. 2733(b)(2)). Because such evidence of negligence is, however, usually not available with a formal investigation under AFR 110-14 (collateral board) has been conducted, the emergency payment procedures authorized for potential claims under the Military Claims Act may, when appropriate, still be used (§ 842.4; 10 U.S.C. 2736; 28 U.S.C. 2680). Conversely, the approval of an advance emergency payment to a potential claimant does not require that his claim, when presented, be settled under the Military Claims Act, if it is beneficial to and appropriate for the Air Force to settle such claims under the Federal Tort Claims Act. It is the Government, not the claimant, who is responsible for determining the settlement statute to be used.

(d) The provisions of the Military Claims Act are operative "under such regulations as the Secretary of a military department may prescribe." Thus, merely because a claim might conceivably be considered under the general language of the statute, it need not necessarily be paid. Nothing in the Military Claims Act would require that the act or omission giving rise to a claim even under the "in scope" provision of the Act, be tortious, or an otherwise wrongful departure from an arbitrarily established standard of care. The exercise of policy discretion by the Secretary of the Air Force as implemented by § 842.43, is the source of the requirement that the causative act or omission be negligent, wrongful, or otherwise involve fault. The "in scope" provision of the Act applies to those tort-type claims, not cognizable under other statutes, that involve property damage, personal injury, or death caused by the negligent or wrongful act or omission of military personnel or civilian employees of the Air Force acting in the scope of their employment. if these conditions do not exist, the claim is not payable under the "in scope" provision of the act unless a bailment is involved.

[41 FR 50427, Nov. 16, 1976]

§ 842.43 Proper claimants.

Rule	Proper claimants (A)	Scope and limitations (B)
1	Property owners or their representatives (upon presentation of evidence of authority to act for owner, an authorized agent or legal representative may present a claim in the name of the claimant).	Includes those who stand in a certain legal relationship with record owner, such as bailee, lessee, mortgagee, or conditional vendee, but not one who holds title only for security purposes (for example, conditional vendor). If record owner is paid for property damage, a person who has purchased the property under an executory agreement may not be paid for the same damage. However, make every effort to unite all interested parties as joint claimants.
2	Subrogees	If an insurer has fully compensated an owner for his loss, the insurer is the only proper claimant. When only part of loss has been compensated, the insurer and owner may present claims jointly or separately; if aggregate of both claims totals more than monetary jurisdiction of approving authority, he may not settle either claim but must forward both, with claim files, to the appropriate approving authority or AF/JACC.
3	Military and civilian personnel of the United States.	Applies if claim is not cognizable under chapter 6 or 12 (paragraph 7–4a).
4	States or State agencies, counties, and municipalities.	Applies if otherwise covered.
5	Prisoners of war or interned enemy aliens in the United States.	May present claims for damage to or loss of private property if otherwise covered.
6	Members of Armed Forces of the United States on active duty.	For claims for property damage at an Air Force base or installation that resulted from negligent or wrongful action or omission of Air Force member or civilian employees acting within the scope of their employment. Exception: At quarters losses, see ch. 6.
7	Persons in a foreign country who are not its inhabitants.	For claims arising out of Air Force noncombat activities in that country; or out of negligent or wrongful acts or omissions of Air Force military or civilian personnel acting within the scope of their employment in the foreign country (except military and civilian personnel who suffer injury or death incident to their service, and their representatives).
8	Air Force military or civilian health care providers.	For judgment or settlement resulting from litigation concerning acts committed within the scope of their employment as authorized by 10 U.S.C. 1089(f) and DOD Directive 6000.6. After investigation, forward all such claims to HQ USAF/JACC for settlement. (See Para. 7–6d)

NOTE: If a claim arises from the acts of military personnel the scope of employment is not necessarily synonymous with the line of duty determination made under AFR 35–67. If claim arises from acts of civilians, note that prisoners of war and interned enemy aliens are considered civilian personnel when engaged in labor for pay; so are volunteer workers and others serving as Air Force employees, even though without compensation, if they are supervised and controlled by authorized Air Force personnel. However, household servants employed in quarters of military or civilian personnel are not. The source of wages and supervision are factors to be considered in this decision. See 10 U.S.C. 2733(b) and § 842.44 for claimants excluded.

Claims under Subpart D—Continued

Rule	If claim arises from— (A)	Then it is— (B)
1	Noncombat activities (§ 842.42)	
2	Negligent or wrongful act or omission by Air Force military or civilian personnel in the scope of their employment that results in personal injury or death, or damage to real or personal property, when not cognizable under (but not prohibited by) the Federal Tort Claims Act, the Foreign Claims Act, or an international agreement (but see rule 7 and note 1).	Cognizable, if otherwise covered (note 2).
3	Loss or damage of personal property shipped at Government expense by persons not proper claimants under Subpart C.	Cognizable and if damage or loss occurred under circumstances for which carrier was responsible, claimant must make a demand for payment on carrier or insurer.
4	Damage to or loss or destruction of registered or insured mail while in custody of authorized Air Force military or civilian personnel; for example, unit mail clerks, even though damage or loss resulted from criminal acts or Air Force noncombatant activities.	Cognizable and will be processed as a bailment claim (§ 842.46).
5	Damage to or loss of bailed property when such risk was specifically assumed by the bailor.	
6	Combat activities of military forces during war or armed conflict	
7	Injury to or death of military or civilian personnel incident to their service	

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Claims under Subpart D—Continued

Rule	If claim arises from— (A)	Then it is— (B)
8	Injury to or death of a person covered by Federal Employees' Compensation Act (5 U.S.C. 8101) or Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901, et seq.; 5 U.S.C. 8173); or U.S. contract or agreement that provides employee benefits through insurance or local law or custom when the premium or contribution is paid by the United States (note 3).	
9	Death, injury, or damage in a foreign country when claim is presented to authorities of a foreign country under art. VIII, NATO Status of Forces Agreement, art. XVIII, Japanese Status of Forces Agreement, or similar treaty or agreement, if reasonable disposition was made of claim and claimant has given U.S. Government release.	
10	Death, injury, or damage occurring in a foreign country to an inhabitant of a foreign country.	Not payable.
11	Purely contractual transactions	
12	Private, as distinguished from Government, transactions	
13	Patent or copyright infringement	
14	Damage, use, rental contract, or other expenses involving the regular acquisition, possession, and disposition of or interest in real property by or for the Air Force (§ 842.177) except use and occupancy claims (rule 1).	
15	Taking of private real property by a continuing trespass (§ 842.177)	Not payable.
16	Loss of or damage to mail of any type in the possession of the USPS, a military postal service, or of ordinary mail and minimum-fee insured mail without an insurance number or requirement for hand-to-hand receipt, and including registered mail by enemy action.	Not payable (note 4).
17	Loss of rental fee for personal property	Not payable.
18	Death, injury, or damage that is being litigated against the United States	
19	A maritime occurrence covered under U.S. admiralty laws	

NOTES: 1. Comply with DOD single service assignments of claims responsibility for all military departments and DOD; also NATO SOFA and similar agreements are normally preemptive. 2. No award for any claim under this chapter may include reimbursement for any medical, hospital, or burial expenses borne by the United States. Also apply § 842.106 policy to U.S. right of indemnity when an employee tort-feasor is covered by public liability insurance or a joint tort-feasor is involved. 3. However, claims involving the Defense Base Act or the War Hazards Compensation Act will not be disapproved below HQ USAF without the prior approval of HQ USAF/JACC (42 U.S.C. 1651–1654, 1701–1717). Furthermore, if a claim by a civilian employee has been presented for processing under this chapter and a valid and substantial question exists as to the appropriate remedy available, but the employee has not presented an FECA claim, he will be advised of his right to do so by the staff judge advocate processing the claim. Settlement of a claim under this part will also be deferred whenever a valid and substantial FECA question exists, an FECA claim is pending before the Bureau of Employees' Compensation, or a claim is contemplated (*Somma* v. *United States*, 283 F. 2d 149 (3d Cir. 1960); *Daniels-Lumley* v. *United States*, 306 F. 2d 769 (C.A. D.C. 1962). This policy also applies to NAF employee claims covered by 5 U.S.C. 8171–8173). 4. See rule 4 and § 842.175.

[41 FR 50428, Nov. 16, 1976, as amended at 44 FR 35220, June 19, 1979]

§ 842.44 Claimants excluded.

(a) Military personnel or civilian employees of the United States who suffer personal injury or death incident to their service, and their legal representatives.

(b) Nonappropriated fund instrumentalities.

(c) Bailees, when the bailor has, by express agreement, assumed the risk of damage, loss, or destruction.

(d) Other agencies or departments of the U.S. Government (but see § 842.175).

[32 FR 14824, Oct. 26, 1967, as amended at 41 FR 50429, Nov. 16, 1976]

§ 842.45 Claims payable under other subparts.

The following types of claims should be settled under the subpart indicated rather than under this subpart: Personnel claims, Subpart C; foreign claims, Subpart E; international agreement claims, Subpart F; admiralty claims, Subpart H; claims cognizable under the Federal Tort Claims Act, Subpart I; ANG claims, subpart K; and nonappropriated fund claims, Subpart M.

[41 FR 50429, Nov. 16, 1976]

§ 842.46 Claims payable under this subpart.

NOTE: See § 842.43(b).

(a) *Bailment claims.* A bailment is not created merely by the act of plac-

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ing personal property in a Government area. There must be an authority by which the Government accepts custody of the property, and it must be accepted on behalf of the Air Force by authorized personnel acting in their official capacities. Bailment claims are not payable if the bailor has, by express agreement, assumed the risk of damage, loss, or destruction.

(b) *Claims arising from lost or damaged mail.* When registered or insured mail is delivered to the Air Force by the United States Postal Service (USPS) or Military Postal Service (Army or Air Force Post Office (APO) or Fleet Post Office (FPO)), the Air Force assumes responsibility for transporting and distributing it to the authorized military and civilian personnel. Claims for loss or damage to mail before its delivery to authorized Air Force personnel or after redelivery to the USPS or Military Postal Service must be presented to the USPS for consideration under its contract of indemnity with the sender.

(1) The Air Force is not an insurer and does not assume the contract of indemnity issued to the sender by the USPS. When mail is delivered to authorized Air Force personnel, the indemnity contract terminates and the measure of damage is not controlled by the amount of insurance coverage. However, the sender's declaration of value or the amount of coverage obtained is considered as some evidence of value.

(2) If a package was not delivered to addressee or returned by the Air Force, the registration or insurance fee and postage are payable in addition to the value of the lost or destroyed item. If a registered or insured article was actually received by the addressee with a portion of the package intact, the postage and registration or insurance fee are not payable.

(c) *Contract claims.* Normally, claims enforceable under a lease or other express contract should be settled under contract procedures (§ 842.177). However, under the following conditions they should be forwarded through claims channels to AF/JACC for disposition: (1) Contract procedures are not available, or their use would not be in the best interests of the United States. (2) Claim is based on irregular procurement or an implied contract. (3) There is controversy about whether a claim should be processed through claims or procurement channels.

(d) Claims by Air Force military or civilian health care providers (see § 842.43, Rule 8). Payable costs resulting from claims or suits against individuals by 10 U.S.C. 1089(f) shall include any costs of judgment which are taxed by a court, costs of a settlement or compromise approved by the Attorney General, normal litigation expenses and such interest as any medical personnel may be obligated to pay by any court order or by statute. Costs for attorney's fees shall not be payable unless the retention of the attorney was approved by the Attorney General.

[41 FR 50429, Nov. 16, 1976, as amended at 44 FR 35220, June 19, 1979]

§ 842.47 Determination of liability or responsibility.

(a) As to claims arising in the United States, its territories, commonwealths and possessions, the law of the place where the act or omission occurred will be applied in determining liability and the effect of contributory negligence on claimant's right to recover damages.

(b) In claims arising in a foreign country, liability normally will be determined in accordance with general principles of American tort law as stated in standard legal publications, except as it applies to absolute liability. However, the law of the place where the act or omission occurred will be applied in determining the effect of claimant's negligence on his right to recover damages. Where applicable, rules of the road and similar locally prescribed standards of care will also be followed in determining fault.

(c) In determining quantum and elements of damages, the law of the place where the act or omission occurred normally will be applied, except that in claims arising in foreign countries, the law of the state of legal residence of the person whose injury, property

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damage or death generated the claim may be applied.

(d) If the proximate cause of an accident or incident is the joint or concurrent tortuous act or omission of Air Force personnel and one or more persons other than the claimant, his agent or employee, any part of the claim that has not already been paid by or on behalf of the other persons is payable. Settlement will not be delayed pending attempts to obtain contribution from a joint tortfeasor, but contribution should be obtained where possible.

[41 FR 50429, Nov. 16, 1976]

§ 842.48 Statute of limitations.

A claim must be presented in writing within 2 years after it accrues, unless it accrues in time of war or armed conflict, or a war or armed conflict intervenes within 2 years after it accrues, and claimant shows good cause. In such event, the claim must be presented not later than 2 years after the war or armed conflict is terminated. Commencement and termination dates of an armed conflict will be as established by concurrent resolution of the Congress or determined by the President.

§ 842.49 Settlement authority.

Authority to consider, settle, deny, and pay claims under this subpart is delegated as follows:

(a) *Claims payable for $2,500 or less.*

(1) The SJA of each Air Force base, station, and fixed installation, or his designee.

(2) Any judge advocate officer when designated by the Judge Advocate General.

(b) *Claims payable for $5,000 or less.*

(1) Staff judge advocates of PACAF and USAFE, or his designee.

(2) Staff judge advocates of single base GCMs, or of GCMs in PACAF and USAFE and their designees.

(3) Within HQ USAF: (i) The Assistant Judge Advocate General.

(ii) Director of Civil Law.

(iii) Chief, Claims and Tort Litigation Staff.

(iv) Branch Chiefs, Claims and Tort Litigation Staff.

(c) *Claims recommended for payment in an amount in excess of settlement authority.* All claims in excess of a staff judge advocate's settlement authority will be forwarded through claims channels to the office having sufficient settlement authority to act on the claim.

(d) *Claims payable for $25,000 or less.* The Judge Advocate General.

(e) *Claims recommended for payment in excess of $25,000.*

(1) The Secretary of the Air Force may disapprove a claim or, if he considers it meritorious and otherwise covered under this subpart make an award in an amount greater than $25,000.

(2) Upon receipt of a settlement agreement in full satisfaction of the claim, he may authorize a partial payment of $25,000 (including any emergency payment under § 842.4). Generally emergency payments are made only for personal, not corporate, claims (§ 842.4). The Secretary will return the claim to the Judge Advocate General for payment action. The claim will be forwarded to the General Accounting Office for certification to the Treasury of the balance due claimant

(f) *Disapproval.* A claim may be disapproved by any designee in whole or in part. If total disapproval is warranted, a designee's authority below HQ USAF is limited by the dollar amount of the claim. Claims presented in excess of their authority must be forwarded through claims channels to the staff judge advocate or other officer who possesses such settlement authority.

(g) *Control of settlement authority.* The settlement authority granted in this section can be withdrawn, reduced, or restored by a superior in the claims channels. However, all organizations subordinate to Headquarters USAF/JACC will notify that office in writing of any such withdrawal, reduction, or restoration.

(h) *Appeals.* Appeals from claims approved or disapproved by the Judge Advocate General for $25,000 or less will be referred to the Secretary of the Air Force for his action. The Secretary has delegated authority to take final action on other appeals of claims approved or disapproved by designees. However, no designee is authorized to

take appellate action on his own settlement. Appealed claims will be forwarded through claims channels to the designee of the Secretary who has appellate claims jurisdiction or to Headquarters USAF/JACC. Appellate authority is designated as follows:

(1) *Appeals from claims approved or disapproved for $5,000 or less.* (i) *Within HQ USAF.* (a) The Judge Advocate General. (b) The Assistant Judge Advocate General. (c) Director of Civil Law. (d) Chief, Claims and Tort Litigation Staff. (e) Branch Chiefs, Claims and Tort Litigation Staff.

(ii) Staff Judge Advocates of PACAF and USAFE and their designees.

(2) *Appeals from claims approved or disapproved for $2,500 or less.* Staff Judge Advocates of single base GCMs, of GCMs in PACAF and USAFE, and their designees.

[41 FR 50429, Nov. 16, 1976, as amended at 43 FR 7316, Feb. 22, 1978; 44 FR 35220, June 19, 1979]

Subpart E—Foreign Claims (10 U.S.C. 2734)

§ 842.50 Scope of subpart.

This subpart tells how to settle and pay claims against the United States presented by inhabitants of foreign countries for death, personal injury, or damage to or loss of property caused by military and civilian members of the U.S. Armed Forces in foreign countries.

§ 842.51 Scope and limitations of foreign claims.

Applicable law—	Statute of limitations—	Right to appeal—	Proper claimants—	Excluded claimants—
10 U.S.C. 2734.	2 years from date claim accrues.	No appeal right.	Foreign nationals who are inhabitants of any foreign country. U.S. Citizens or corporations who actually inhabit the foreign country in which claim arises. A national government, and its political subdivisions (such as municipal or prefactural governments) of a foreign country.	A national (or national-controlled corporation) of a country engaged in war or armed conflict with the United States or its ally (see Note 1); U.S. Armed Forces military and civilian personnel domiciled in United States but living in a foreign country under competent orders; U.S. citizen dependents of Armed Forces military and civilian personnel or other U.S. Government employees residing with their sponsors in a foreign country; U.S. citizens present in, but not inhabitants of, a foreign country, including tourists, contractor employees, and their dependents; Foreign military personnel, if claim is for death or personal injury arising out of a joint mission with the United States and caused by act or omission of a member or employee of U.S. Air Force engaged in scope of employment; An insurer or other subrogee (see Note 2).

NOTES: 1. A national (or national-controlled corporation) of a country engaged in war or armed conflict with the United States or its ally may be a proper claimant, if the foreign claims commission considering the claim or the local military commander determines that at the time of the incident the claimant was and is friendly to the United States.

2. An insurer or subrogee may, however, claim as agent for its principal. If it does, the claim must be presented in the name of the insured and settled solely with him without regard to insurance.

§ 842.52 Determining cognizability of a claim.

(a) *Causation.* Since the Foreign Claims Act provides an ex gratia remedy, it should be broadly construed in the light of its purpose. In view of its expressed intent to promote and maintain friendly relations with inhabitants of foreign countries by expeditious settlement of meritorious claims, the United States must accept responsibility for almost all damage caused by members and employees of its armed forces. Some applicable acts and omissions are those which are criminal, negligent, willful, wrongful,

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and mere mistakes of judgment. Cause and merit are the primary criteria in determining applicability of the Act. Proof of fault is required only to the extent necessary to show that the claim is meritorious.

(b) *Scope of employment.* Scope of employment is:

(1) A prerequisite to a finding of U.S. responsibility and payment of a claim if the employee concerned is an indigenous person, a prisoner of war, or an interned enemy alien. These persons are "employees" within the meaning of the Foreign Claims Act only when in the service of the United States. Ordinarily, a slight deviation as to time or place does not constitute a departure from the scope of employment. The deviation must be material. To determine status, consider local law or custom and the time, place, and purpose of the activity and whether it is for furtherance of the general interest of the Air Force and is usual for or reasonably to be expected of personnel of the grade and classification involved. Also consider whether the instrumentality from which the damage or injury resulted was owned or furnished by the Air Force. However, if the claim arose from the operation or use of a U.S. Armed Forces vehicle or other equipment by such a person, it may be paid regardless of whether that person was acting within the scope of his employment, provided that local law imposes liability on the owner of the vehicle or other equipment in the circumstances involved.

(2) Immaterial when claim arises from acts or omissions of members or employees of the Air Force not covered by paragraph (b)(1) of this section. The fact that the offender is a U.S. citizen or a non-U.S. citizen hired in another foreign country for employment in the country where the damage occurred imposes moral responsibility upon the United States which placed the employee in the foreign country in a position to cause the injury or damage to its inhabitants. Whether the offender was within the scope of employment makes little difference to the injured claimant. Furthermore, if the offense is a criminal act and thus clearly without the scope of employment, there is greater reason for compensating the injured person and taking prompt disciplinary action against the offender.

(c) *Contributory and comparative negligence.* Unless required by local law or custom, contributory negligence by the claimant, his agent, or employee is not a bar to recovery. If the comparative negligence doctrine is used in a jurisdiction, the adjudication will reflect the percentage of negligence of each party, and the amount of damage sustained by both parties will be apportioned according to local law.

(d) *Damages.* Claims of inhabitants of foreign countries will be settled under the law and standards in effect on the date claims accrued. In calculating the amount of any lump sum award, consideration will be given to the present value of any periodic payments upon which the award is based. The award will not make deduction for any sums received by the claimant from collateral sources other than the U.S. Government, the U.S. tort-feasor, or a joint tort-feasor. Proceeds of property insurance where the premiums are paid by claimant will therefore not be deducted. Deduction may properly be made of sums received from the U.S. tort-feasor's liability insurer. On the other hand, uninsured motorist's payments should not be deducted from an award when the result would subject the U.S. tort-feasor to reimbursement action. The collateral source doctrine is applied to foreign claims since it is in the interests of the Government to achieve final settlement of all legitimate aspects of a claim. This promotes effective operation of Government policies on criminal jurisdiction over U.S. tort-feasors and facilitates their availability for military reassignments. The rule likewise recognizes that subrogation claims may not be paid under this subpart.

[32 FR 14824, Oct. 26, 1967, as amended at 41 FR 50430, Nov. 16, 1976]

§ 842.53 Claims cognizable under this subpart.

Rule	A—If a claim arising outside the U.S., its possessions, or Puerto Rico—	B—Then under this subpart it is—	C—And it is—
1	Arises from damage, loss, personal injury, or death caused by act or omission of Air Force military or civilian personnel or is otherwise incident to Air Force noncombat activities.		Payable.
2	Is for damage to or loss of real property of any foreign country, its political subdivision, or inhabitant, including damage or loss incident to use and occupancy unless excluded by rule 14.		
3	Is for damage to or loss of personal property of owners shown in rule 2, including property bailed to the U.S.		
4	Is based on personal injury or death of an inhabitant of a foreign country.		
5	Is a nonappropriated fund claim (see note 1)		
6	Has been presented to authorities of a foreign country and settled under Article VIII of NATO Status of Forces Agreement, Article XVIII of Japanese Status of Forces Agreement, or similar treaty or agreement.	Cognizable	Not payable.
7	Is purely contractural in nature (see note 2)		
8	Is for attorney fees, punitive damages, a judgment or interest on a judgment, bail, or court costs.		
9	Accrues from a private contractual relationship between U.S. personnel and third parties about property leases, public utilities, hiring of domestic servants, and debts of any description (note 3).		
10	Is based solely on compassionate grounds (see note 4)		
11	Is a bastardy claim		
12	Is for patent or copyright infringement		
13	Is waived under an international agreement		
14	Is for rent, damage, or other payments involving regular acquisition, possession, and disposition of real property or interests therein by or for the Air Force (note 5).		
15	Is presented by a Communist country or its inhabitants (note 6).		
16	Is for taking real property by a continuing trespass (par. 16–6)		
17	Is covered under Federal Employees' Compensation Act (5 U.S.C. 8101, et seq.), or the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901, et seq.), or U.S. contract or agreement that provides employee benefits through insurance or local law or custom when the premium or contribution is paid by the United States (note 7).	Cognizable	Not payable.
18	Results directly or indirectly from combat activities (note 8)	Not cognizable	
19	Is presented during a period when settlements are suspended by a commander during war or armed conflict.		
20	Is based on negligence of a concessionaire or other independent contractor.		
21	Accrues out of activities of dependents of members and employees of the Air Force, their guests, servants, or pets.		
22	Is presented while litigation, commenced by the claimant and arising from the same incident or accident, is pending against the United States or its employees (note 9) and HQ USAF/JACC may authorize claim settlement action in appropriate cases on request.		
23	Is covered under U.S. admiralty laws	Cognizable	Not payable (but see note 10).

NOTES: 1. These claims are paid as prescribed by regulation of service concerned (Subpart M of this part covers Air Force claims).

2. Exception: Irregular procurement damage claims should be settled under this subpart if procurement authorities cannot effectively regularize the action and make proper payment under procurement procedures; forward to HQ USAF (JACC) through channels the files of any cases on which procurement and claims personnel cannot reach an agreement about claims disposition.

3. Forward these claims for action to the commander of the person concerned (see AFR 35–10).

4. Solatium is not payable out of claim funds but procedures for paying it out of O&M funds as an investigative expense under provisions of DoD annual appropriations act have been approved.

5. See sec. 842.177.

6. These claims are considered on an individual basis and settled under this subpart only when specifically authorized by HQ USAF/JACC (sec. 842.64).

7. If adequate compensation is not payable under foreign law custom ———, the judge advocate general may authorize payment of an appropriate award provided that the benefits received through these payments will be deducted from the amount payable under this chapter.

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8. Exception: A claim may be allowed if it arises from an accident or malfunction incident to the operation of an aircraft of the armed forces of the United States, including its airborne ordinance, indirectly related to combat and occurring while preparing for, going to, or returning from a combat mission.
9. This rule does not apply to joint criminal-civil proceedings.
10. The judge advocate general of the military department concerned (or his designee) may authorize the settlement of an admiralty claim under this subpart. The Chief, Claims Division (HQ USAF/JACC) is the USAF designee.

[33 FR 2386, Jan. 31, 1968, as amended at 41 FR 50430, 50446, Nov. 16, 1976]

§ 842.54 Settlement authority.

An emergency payment must be deducted from the amount that may be paid under this part (§ 842.4), and the total payment authority of a commission is thereby limited. The appointing orders may also limit a commission's payment authority. Except as otherwise limited, a commission may settle and pay meritorious claims covered by this subpart as follows:

(a) *Claims payable for $2,500 or less.* A one-member foreign claims commission may settle and pay a claim in an amount not in excess of $2,500.

(b) *Claims payable for $25,000 or less.* (1) A three-member foreign claims commission may settle and pay a claim in an amount not in excess of $25,000 (regardless of the amount of the claim presented). However, if the claimant will not accept an offer of $25,000 or less or amend his claim, the claim will be forwarded promptly as required by paragraph (c)(1) of this section. Awards between $7,500 and $25,000 are subject to the approval of the appointing or other designated authority.

(2) The approving authority will take the following action on a claim which a commission has approved for an award between $7,500 and $25,000: (i) Approve the award; or (ii) Return claim to the commission for further consideration as recommended.

(c) *Claims recommended for payment for more than $25,000.* (1) When a three-member commission recommends approval of a claim for more than $25,000, it will forward the claim promptly with its related investigative file and memorandum opinion, through claims channels to Hq USAF/JACC. The memorandum opinion will include a narrative description of the incident, specific findings of fact, citations of authority, and concise recommendations concerning the proposed action to be taken by the Secretary of the Air Force.

(2) The Judge Advocate General will refer the claim to the Secretary of the Air Force with his comments and advice.

(3) The Secretary of the Air Force, if he considers the claim meritorious and otherwise covered, will:

(i) Return it to the commission through claims channels for settlement in an amount not over $25,000, or

(ii) Make an award in an amount of more than $25,000 that he considers just and reasonable. Upon receipt of a settlement agreement from the claimant in full satisfaction of the entire claim, he may authorize a partial payment to claimant of $25,000 (including any emergency payment under § 842.4). Generally, emergency and partial payments are made only for personal, not for corporate, claims. The Secretary will return the claim to the Judge Advocate General for the payment action required, including certification to Congress as a legal claim for payment from appropriations made by Congress therefor.

(4) When the Secretary approves a claim in excess of $25,000, the Judge Advocate General will prepare a letter of transmittal with appropriate documentation to the Claims Division, General Accounting Office, Washington, D.C. 20548, for GAO certification and payment by the Department of the Treasury.

(d) *Disapproval authority of foreign claims commissions.* When total disapproval is warranted, a foreign claims commissions' settlement authority is limited by the dollar amount of the claim as presented or amended by the claimant. For example, a one-member commission may not disapprove a claim in excess of $2,500, and a three-member commission's disapproval limit is $25,000. Claims within the monetary jurisdiction of a foreign claims commission that are totally disapproved do not require any action by

the appointing or other designated authority as in paragraph (b)(1) of this section. Claims for more than $25,000 that are recommended for disapproval must be referred through claims channels to HQ USAF/JACC for appropriate settlement action by the Secretary of the Air Force or his designee, the Judge Advocate General, or the Chief, Claims and Tort Litigation Division (HQ USAF/JACC).

(e) *Reconsideration.* See § 842.8 (c)(3). If the commission is no longer in existence, HQ USAF/JACC will designate a successor commission.

[41 FR 50430, Nov. 16, 1976, as amended at 44 FR 35221, June 19, 1979]

Subpart F—International Agreement Claims (10 U.S.C. 2734a and 2734b)

§ 842.60 Scope of subpart.

This subpart governs Air Force actions in investigating and processing or settling certain claims under international agreements, and provides Air Force foreign-country-claim reimbursement and payment authority under the agreed pro rata sharing formulas and statutes.

§ 842.61 Types of claims agreements.

The United States has entered into various agreements to meet conditions in specific foreign states:

(a) *NATO Status of Forces Agreement (NATO SOFA).* (1) With formation of the North Atlantic Treaty Organization (NATO) in 1949 (T.I.A.S. 1964), the stationing of large military contingents of one member nation within the territory of another became common practice. Under this new peacetime collective security arrangement, current systems for processing third party claims were unacceptable. As a compromise between the receiving states' wish to exercise a greater degree of control over adjudication of third party claims and the sending states' reluctance to accept the receiving states' adjudication in toto, the NATO Status of Forces Agreement (NATO SOFA) was devised. Under Article VIII, receiving states settle and pay certain claims and judgments under its own laws and regulations and share with sending states the costs of the sums awarded in the pro rata amounts provided (4 U.S.T. 1792; T.I.A.S. 2846).

(2) Twelve countries signed the NATO SOFA in London on June 19, 1951. They were: Belgium, Canada, Denmark, France, Iceland, Italy, Luxembourg, The Netherlands, Norway, Portugal, United Kingdom, and the United States. Iceland executed the agreement but did not ratify it, executing instead a somewhat similar bilateral agreement with the United States (see 2 U.S.T. 1533, 1550; T.I.A.S. 2295). The United States ratified the NATO SOFA and it came into force on August 23, 1953 (4 U.S.T. 1792; T.I.A.S. 2846: attachment 4, AFM 110-3 (Civil Law)). Greece, Turkey, and the Federal Republic of Germany later became contracting parties by accession (Article XVIII) (annotations 9-3a (1)(b)).

(b) *Other SOFAs.* Different types of SOFAs are in effect between the United States and Australia, Iceland, Japan, Korea, Taiwan, and Spain. They include modifications and changes to the NATO formula and, when applicable, their provisions must be complied with, since some of them state that certain or all claims will be settled according to U.S. law, such as the Taiwan SOFA (annotations 9-3a (2)).

(c) *Other types.* Some foreign countries not a party to SOFAs, such as the Democratic Republic of the Congo, the Dominican Republic, Ethiopia, India, Iran, Liberia, Libya, Mali, Nepal, Pakistan, the Philippines, Republic of Vietnam, Saudi Arabia, and Thailand have executed military level agreements with the United States that govern the settlement of claims caused by U.S. personnel within their borders. Some agreements also cover foreign trainees in the United States (AFM 50-29, paragraph 3-29), and others authorize an "exchange" officer program (AFR 36-41).

(d) *Terms explained (NATO).* (1) Civilian component. The civilian personnel accompanying a force of a contracting party, employed by an armed service of that contracting party and not stateless persons, nationals of a state not party to the North Atlantic Treaty nor nationals of or ordinarily

resident in the State in which the force is located (Article I, paragraph 1(b), NATO SOF Agreement). The term: (i) Specifically excludes indigenous employees of U.S. forces. However, other provisions such as paragraphs 5 and 7 of Article VIII, contain the legally responsible and unauthorized vehicle-use provision that authorizes settlement of certain claims generated by these employees. (ii) Includes civilian employees of a U.S. military department and employees of nonappropriated funds, both U.S. citizen employees, and non-U.S. citizen employees hired outside the territory of the receiving State, who are not nationals of or ordinarily resident in the receiving State. (iii) Does not include all persons accompanying U.S. forces in a foreign country; for example, dependents, contractors, technical representatives, University of Maryland faculty members, and American National Red Cross workers are excluded unless specifically included in a supplementary agreement.

(2) *Contracting parties.* The 15 countries that signed or acceded to the NATO SOF Agreement.

(3) *Force.* Personnel of the land, sea, or air armed services of one contracting party, in the territory of another contracting party in the North Atlantic Treaty area in connection with their official duties—however, two contracting parties concerned may agree that certain persons, units, or formations will not be regarded as constituted or included in a force for the purposes of the present Agreement (Article I, NATO SOF Agreement). (i) The Department of Defense (DOD) and the Department of State have determined that certain U.S. personnel are not members of a force within the meaning of this term. In this category are members of the MAAG (Military Assistance Advisory Groups) and other personnel with diplomatic immunity; for example, defense attaches and certain personnel attached to the staff of a United States embassy. (*a*) Since diplomatic immunity has sometimes been broadly extended, local United States embassy officials should be contacted about the status of these personnel in a particular country when they are involved in an accident or incident, so that the receiving State may be notified of their status. (*b*) Any claims arising out of acts or omissions of personnel with diplomatic immunity must be processed under Subparts D, E, and G of this part, as appropriate. They will be settled directly, without advance consideration by a receiving State, but if settlement or adjudication action is taken by the receiving State, the staff judge advocate concerned will immediately report the action to HQ USAF/JACC, Washington, D.C. 20314 and to local United States embassy authorities. (ii) Interpretations under this provision may vary from country to country. Most NATO countries will not recognize a U.S. serviceman on leave from his duty station in another country as being a member of a force. Ordinarily, no question is raised about claims generated by servicemen in the performance of official U.S. duties, including Reserve training activities. National Guard personnel normally perform duties under Federal law in foreign countries only in active Federal service. Agreed views or bilateral agreements with some countries also bar claims by U.S. military and civilian personnel and their dependents. Accordingly, all official negotiations and arrangements between the host and the U.S. visiting forces, and opinions of the Judge Advocate General, should be studied. If the question has not previously been settled, request the advice of AF/JACC immediately.

(4) *Legally responsible.* Interpretation of the term "legally responsible" as used in paragraph 5, Article VII, permits a receiving state to settle third party claims under its laws and regulations pertaining to claims arising from the activities of its own armed forces. Such claims may be based on respondent superior or other doctrines. Claims generated by indigenous employees are included in this interpretation, even though the employees are not included in the definition of "civilian component" (Article I).

(5) *Military authorities of the sending state.* The authorities of a sending State who are empowered by its laws to enforce the military laws of that State with respect to members of its forces or civilian components.

(6) *North Atlantic Council.* The Council established by Article 9 of the North Atlantic Treaty or any of its subsidiary bodies authorized to act on its behalf.

(7) *Receiving State.* The contracting party in the territory of which the visiting force or civilian component is either stationed or passing through; the host country.

(8) *Sending State.* The contracting party to which the visiting force belongs.

(9) *Third-Parties.* "Third-Parties," as used in Article VIII, paragraph 5, is not defined and neither the NATO legislative history, the NATO SOFA Working Group Papers, nor the NATO SOFA Statutory implementation history contains any reference to the term § 842.71. Only certain claims of "Contracting Parties," and "contractual," "war" and "admiralty" property damage claims are specifically excluded. Although it may appear that a third-party could be any person in a foreign country where NATO SOFA is in force, it is clear that the "first" and "second" parties are the sending and receiving States and "third-parties" are those who are not "first" or "second" parties. Since members of the force and civilian component (employees) are agents of the sending and receiving States, respectively, they can be considered as an integral part of the "first" or "second" parties, whichever term may be applied to the countries concerned, but they are not "third-parties," when their damage or injury is caused by another member of the same force or civilian component while in the performance of official duty. Dependents, tourists and other U.S. noninhabitants of a foreign country are not agents of the U.S. and therefore fall in the "third-party" category unless specifically excluded by agreement. The fact that the U.S. has authority to settle and pay the claims of these citizens under the Military Claims Act gives them alternative remedies—SOFA or Military Claims Act. Members of a U.S. force and civilian component in these foreign countries do not have similar rights and their claims will normally be settled and paid under the Military claims Act or other applicable U.S. law, rather than under a NATO SOFA type claims procedure. therefore, agreements with Canada, Germany and Japan exclude members of a U.S. force or civilian component as third-party claimants and their dependents are also excluded by Canada and Japan. Accordingly, all current agreements, local laws and regulations, and prior decisions must be reviewed if the claim of a member of a U.S. force or civilian component is presented to a SOFA country or suit is filed therefor, and a prompt report made to HQ USAF/JACC, so that appropriate action may be taken by the Departments of Defense and State.

(10) *United States Tort-feasor.* A United States tort-feasor must be either:

(i) A member of a United States force or civilian component; or

(ii) A person for whose act or omission the force or civilian component is legally responsible under local law.

[32 FR 14824, Oct. 26, 1967, as amended at 41 FR 50431, Nov. 16, 1976]

§ 842.62 Government-to-government claims waiver agreements.

(a) Many peace treaties and agreements executed after World War II released the United States and other allied nations from responsibility for settling specific classes of claims and provided that other countries would assume the responsibility.

(b) In 1946 and 1947 the United States and the United Kingdom executed a mutual forbearance and sharing agreement. It provides for mutual waiver of certain types of government-to-government claims resulting from acts of armed forces or civilian personnel (61 Stat. 2876; T.I.A.S. 1622; 15 UNTS 281).

(c) Under the Department of State opinion that treaties and agreements remain in effect until they expire by their terms, are terminated by mutual agreement, or are replaced or superseded by other agreements, the Department of the Navy applies a 1946 waiver agreement between the United States and Canada to admiralty claims for damage caused by public vessels of the respective governments that otherwise would be payable under NATO

SOFA (61 Stat. 2520; T.I.A.S. 1582; 7 UNTS 141).

§ 842.63 Territorial application (NATO).

Normally, this Agreement applies only to the metropolitan territory and to the central authorities and political subdivisions of contracting parties. The geographic boundaries are not delineated and the applicable area is not otherwise defined except in the NATO Treaty which pertains to Europe, North America, and the North Atlantic Ocean area (see paragraph 2, Article I; Article XX). Article XX permits a state to extend the Treaty to any or all of its territories in the North Atlantic Treaty area by issuing an instrument of ratification or accession, notifying the United States, or making special arrangements with each sending state concerned. The following extensions have been accomplished:

(a) The Department of State advised DoD on November 16, 1960, that Alaska is included in the North Atlantic Treaty area but that Hawaii is not.

(b) The United States and Denmark have agreed that Article VIII applies to Greenland.

(c) The United Kingdom has extended its application to the Isle of Man.

(d) Portugal specified that the agreement only applies to the territory of Continental Portugal and excludes the "Adjacent Islands and Overseas Provinces."

(e) DoD has authorized the U.S. Department of the Navy to settle Navy nonscope claims under $200 that arise in foreign ports visited by U.S. forces afloat, and, subject to concurrence of the authorities of the receiving state concerned, to process such claims without regard to paragraph 6 of Article VIII.

§ 842.64 Effect of SOF Agreements on U.S. statutes.

(a) The Bureau of Employees' Compensation, U.S. Department of Labor has held that NATO SOFA supersedes domestic U.S. law when a claim is cognizable under both the Agreement (which has treaty status) and other U.S. law. That Bureau requires a certificate showing that the claim is not cognizable under NATO SOFA before it will settle and pay a workman's compensation claim of a Canadian national employee in Canada by the U.S. (5 U.S.C. 8101, et seq.). It has also held that this U.S. statute is not applicable to injury or death claims of direct hire employees of U.S. forces in the UK as such claims are covered by the UK National Insurance Act (T.I.A.S. 2559).

(b) Other U.S. agencies concerned (State and Defense) are not always in agreement as to the legal effect of NATO SOFA and similar agreements on U.S. claims statutes, or who are proper third party claimants. However, in foreign countries when the Air Force has single service claims responsibility third party claims will be processed as follows:

(1) When a tort claim of an inhabitant of a foreign country, cognizable under NATO SOFA or a similar agreement, is tendered to the Air Force, the claimant will be referred to the foreign country concerned for appropriate settlement action. If "rejected" notify HQ USAF/JACC by expeditious methods (see paragraph (b)(5) of this section).

(2) When a tort claim of a U.S. dependent, tourist or other non-inhabitant of a foreign country, cognizable under NATO SOFA or a similar agreement is received by the Air Force, it will normally be referred to the foreign country concerned for appropriate settlement action unless the claimant is a dependent in Canada or Japan, or specifically requests settlement under U.S. claims laws. However, a claimant or a dependent claimant's parents will be counseled prior to referral when a U.S. claimant has a choice of remedies, and a signed statement of the claimant or parent acknowledging the election of remedies will be retained in the Air Force claim file.

(3) When a tort claim of a member of a U.S. force or civilian component is received by the Air Force, it will normally be settled and paid under the Military Claims Act or other applicable U.S. law rather than under a NATO SOFA type procedure.

(4) If a U.S. national claimant (paragraph (b) of this section) withdraws his claim from consideration by a SOFA country prior to payment or

denial by a competent tribunal of the host country and presents a claim to the Air Force that is congizable under U.S. law, the claim will be processed under the applicable law without regard to the agreement. Also, the date presented to the SOFA country will be accepted as having tolled the statute of limitations. The settlement agreement in such a case, however, will release any and all claims against the U.S., the foreign country concerned and the individual tort-feasor.

(5) When a claim has been settled or adjudicated on its merits by the receiving State under a SOF Agreement, in accordance with the laws and regulations applicable to claims arising from the activities of its own armed forces, it will not be settled or paid under any U.S. claims statute since the matter is res judicata. However, the "rejection" of a claim as not covered will not prevent further appropriate action in a proper case (paragraphs 5(a), 8, and 10, Article VIII and Article XVI, NATO SOFA). Refer these rejection questions to HQ USAF/JACC for advice.

[41 FR 50432, Nov. 16, 1976]

§ 842.65 Claims excluded (NATO).

(a) The following type of claims are excluded under NATO SOFA:

(1) War damage claims (specifically excluded from provisions of paragraphs 2 and 5, Article VIII, by Article XV).

(2) Admiralty property damage claims of third parties (specifically excluded by paragraph 5(h) of Article VIII). (Note, however, that certain government-to-government admiralty damage claims are covered by paragraphs 2 and 3, Article VIII.)

(3) Contractual claims and claims covered by paragraphs 6 and 7 of Article VIII (excluded by paragraph 5, Article VIII).

(b) Admiralty property damage claims of third parties (specifically excluded by paragraph 5(h) of Article VIII). (Certain government-to-government admiralty damage claims are covered by paragraphs 2 and 3, Article VIII.) See also § 842.68 (a)(2).

NOTE: Article VIII is not limited to claims arising from duty acts or omissions of U.S. personnel as certain other claims may be payable under the legally responsible provision. If a claim is not covered under paragraph 5 of Article VIII, it may be considered under paragraph 6 or 7 of the Article; or settled under Subpart D, E, G, or M of this part, as appropriate; or settled by an insurer (§ 842.67(d)).

[32 FR 14824, Oct. 26, 1967, as amended at 41 FR 50432, Nov. 16, 1976]

§ 842.66 Government-to-government claims (NATO).

(a) *Complete or minimum waivers and sharing provisions.* (1) Paragraph 1 of Article VIII completely waives all claims for damage to any property owned and used by a contracting party's armed services, if the damage was caused by the personnel or equipment of another contracting party in connection with the operation of the North Atlantic Treaty, or if the damaged property was being used in a NATO operation. For example, claims arising from aircraft damage to a military barracks by the armed services of another contracting party while on maneuvers would be waived completely.

(2) Paragraph 2 of Article VIII provides for a minimum waiver or sharing of claims for damage to nonmilitary government property, and for damage to military property not arising under conditions of the paragraph, if the damaged property is owned by a contracting party. The minimum waiver provision applies only to claims when the damage is not more than the minimum amounts listed in paragraph 2(f) of Article VIII or the instrument of accession for the country concerned. No part of a claim for damage in excess of that amount will be waived under it. For example, paragraph 2(f) of Article VIII lists $1,400 as the waiver amount for the United States. Therefore, if a U.S. Post Office building were damaged and the damage amounted to only $1,400 or less, the claim would be waived. But if the damage were for $5,000, no part of the claim would be waived, i.e., it would be asserted for $5,000 not for $3,600. However, the pro rata sharing formula applies to these claims (paragraphs 2(d) and 5(e), and paragraph 2(f)) includes a provision that authorizes the contracting parties

to agree on appropriate adjustments of waiver amounts when rates of exchange between currencies vary widely. If the contracting parties cannot agree on liability and the amount of damage to assess, they will select a sole arbitrator, as provided in paragraph 2, Article VIII, to make the determination.

(b) *Property excluded.* Private property and property owned by political subdivisions of the central government of contracting parties is not property owned by a contracting party within the meaning of Article VIII (paragraph a, Article I). The claims of individuals, municipalities, cities, and villages will be handled as any other claim under paragraph 5, 6, or 7, instead of paragraph 1 or 2 of Article VIII.

(c) *Personal injury or death claims.* Paragraph 4 of Article VIII completely waives each contracting party's claims against any other contracting party for injury or death suffered by any member of its armed services while such member was engaged in the performance of official duties.

[32 FR 14824, Oct. 26, 1967, as amended at 41 FR 50432, Nov. 16, 1976]

§ 842.67 Third party claims (SOFA).

(a) See paragraph (d) of this section and §§ 842.61 and 842.64 for processing procedure and explanation of NATO terms used. Refer to other SOFAs for any differences.

(b) Information that is the basis of a determination that a tort-feasor was or was not performing official duties at the time of the accident or incident is normally available only to the military authorities of the sending State. If a receiving State questions the validity of the determination, see paragraphs 8 and 10 Article VIII and Article XVI, NATO SOFA.

(c) Many civil law countries permit a joint civil-criminal action in certain types of cases. Local courts often delay criminal proceedings pending claims negotiations and may reduce a sentence or dismiss an action after the related civil action is satisfactorily settled. NATO SOFA provides that a member of a force or civilian component will not be subject to any proceedings for the enforcement of any judgment given against him in the receiving State in a matter arising from the performance of his official duties. Therefore, this situation will normally arise only in nonscope claims settled under Subparts E, G, and M of this part. However, since suits against U.S. personnel are not barred and the enforcement provision does not apply to indigenous employees (including indirect hire employees), the staff judge advocate will report all such actions to HQ USAF/JACI under AFRs 110–3 and 110–12.

(d) *Processing SOFA third-party claims.*

Rule	If a claim arises—	Then it will be—	And—
	(A)	(B)	(C)
1	From an act or omission of a member of a force or civilian component while performing official duty (rule 4; note 1; and paragraph 2–9).	Settled or adjudicated by the receiving State under laws and regulations governing claims arising from activities of its own Armed Forces.	The receiving State pays any award or judgment subject to pro-rata reimbursement by the sending State (para. 9–15a(2)).
2	From any other act, omission or occurrence for which a force or civilian component is legally responsible (rule 4, and note 1).		
3	Out of a tortious unofficial act or omission by a member of a force or civilian component, or the unauthorized use of any military vehicle of the United States (rule 4, note 2 and fig. 2–4).	Considered by the receiving State, which submits to the sending State a report on the claim that includes recommendations on liability and amount of a fair and just award.	The sending State then determines whether an ex gratia award will be offered under its laws and in what amount (note 3).

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Rule	If a claim arises— (A)	Then it will be— (B)	And— (C)
4	Under rule 1, 2, or 3 and the U.S. vehicle, contractor, or person concerned is covered by a policy of liability insurance, and the receiving State agrees.	Referred to the insurer by either State.....	The insurer settles and pays (note 4). (See note 5 if the insurer denies liability, does not promptly pay a claim, or the receiving State pays the claim without referral to the insurer.)

NOTES: 1. Except contractual claims and those to which paragraphs 6 and 7 of Article VIII, NATO SOFA apply.

2. Except when a force or civilian component is legally responsible under paragraph 5 of Article VIII, NATO SOFA.

3. If an award is made under Subpart E, G, or M of this part and accepted by the claimant in full satisfaction of the claim, payment will be made and the receiving State will be notified of the action taken. The U.S. Navy has limited authority to directly settle and pay nonscope claims under $200.

4. If a nonscope claim of a foreign national is denied or not promptly paid, follow the procedure prescribed in Subpart E of this part for claims covered by insurance.

5. The sending State is responsible for payment of the pro rata share of scope claims, by its insurer or otherwise. However, if note 3 or 4 does not apply, request the advice of HQ USAF/JACC.

[41 FR 50432, Nov. 16, 1976]

§ 842.68 Counterclaims (SOF Agreement).

(a) Under paragraph 5(a) of Article VIII, a receiving state is authorized to assert, adjudicate (litigate), or settle certain affirmative property damage claims on behalf of the United States.

(1) A foreign country may assert a claim on behalf of the United States only if it relates to a third party NATO or other SOF Agreement claim arising from activities of U.S. military or civilian personnel.

(2) Paragraph 5(h), Article VIII, NATO SOFA, also excludes from coverage under paragraph 5(a) any third party admiralty property damage claim arising out of or in connection with the navigation or operation of a ship or with the loading, carriage, or discharge of a cargo, but covers claims for personal injury or death to which paragraph 4 does not apply (paragraph 2 of Article VIII).

(3) A receiving state may assert a counterclaim on behalf of the United States only if its laws and regulations permit a counterclaim in similar circumstances for its own armed services and do not require that the claim be assigned to it. However, the sending state office may authorize a receiving state office to take, in its own name, any legal action necessary to assert a claim and in particular, to assert the claim by set-off, counterclaim, or court action. When a claim arises in the U.S. § 842.73 applies.

(b) The extent of a receiving state's obligation by treaty to present a counterclaim on behalf of the United States may depend on whether the particular counterclaim is discretionary or compulsory under its own laws governing counterclaims for its own armed forces. If a receiving state refuses to present a counterclaim on behalf of the United States in a proper case, the staff judge advocate, without further action, will report the refusal to JACC. Include with the report any explanation the receiving state gives for its refusal to process the counterclaim and a statement of its applicable law. In some instances, the implementing local law does not permit such action, as in Canada, Greece and Japan; Subpart J of this part applies to such claims.

(c) When a United States sending office determines that a third party claimant is responsible for the damage suffered by the United States and that a counterclaim for the damage should be asserted:

(1) The sending State officer will forward in duplicate to the receiving State:

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(i) The required information and evidence on the third party claim.

(ii) A detailed itemization, expressed in local currency, of the damage suffered by the United States.

(iii) Other necessary documents in support of the U.S. Claim for damage.

(2) The sending State office will insure that the counterclaim is satisfied insofar as it is compatible with provisions of local laws and regulations governing claims arising from activities of the armed forces of the receiving State.

[32 FR 14824, Oct. 26, 1967, as amended at 41 FR 50433, 50446, Nov. 16, 1976]

§ 842.69 International military headquarters (NATO).

(a) The Protocol, set up under the North Atlantic Treaty, defines the status of all headquarters and allied personnel stationed, assigned, or attached to Supreme Headquarters Allied Powers Europe (SHAPE) or its subordinate international military headquarters (5 U.S.T. 870; T.I.A.S. 2978). It is now effective in all NATO countries except Canada and France.

(b) Claims provisions of the Protocol are included in Articles IV and VI. They provide that scope claims generated by allied personnel attached to an international headquarters are the responsibility of the international headquarters rather than the country to which the personnel belong. Claims caused by U.S. personnel assigned to these headquarters will be processed as shown in § 842.70.

[41 FR 50433, Nov. 16, 1976]

§ 842.70 Processing international military headquarters third party claims.

Rule	A—If a claim—	B—Then it will be—	C—And—
1	Arose out of an accident or incident involving a vehicle owned by SHAPE or other similar headquarters rather than on loan from an allied government.	Referred to the appropriate international headquarters, since it may be fully covered by liability insurance.	That headquarters will refer it to the insurance company.
2	Is for damage, injury, or death not covered by insurance or inadequately insured, or if liability denied.	Referred to the receiving state in the same manner as other NATO claims.	The sending state will reimburse the receiving state for the agreed pro rata share of any claim paid or subject to later reimbursement by the headquarters concerned.
3	Involves a nonscope act or omission	Processed under Subpart E or G of this part as appropriate.	
4	Involves a U.S. vehicle loaned to and used by another NATO country.	Referred for settlement to the country which caused the damage or injury.	

§ 842.71 U.S. sending state offices (SOFA).

U.S. sending state offices have been established to implement U.S. claims responsibilities under Article VIII of the NATO SOFA and other agreements of this type.

§ 842.72 U.S. claims payment authority.

(a) *Limited statutory authority.* The claims provisions of NATO SOFA and other SOF agreements are not self-executing; they require statutory implementation (see Act of August 31, 1954, 68 Stat. 1006, as codified, 10 U.S.C. 2734a and 2734b; 1954 U.S. Code Cong & Ad. News 1186, 3570). The International Agreement Claims Act authorizes only the agreed pro rata reimbursement of, or payment to, a foreign country for certain types of claims under certain international agreements for:

(1) *Foreign government claims.* The agreed pro rata share of foreign country property damage claims (§ 842.66).

(2) *Third party claims.* The agreed pro rata share of damage, injury or

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death claims settled or adjudicated and paid by a foreign country when the claim arose out of acts or omissions in the performance of official duty of civilian employees of Armed Forces or military personnel of the U.S.

(i) The law limits reimbursement to claims arising out of "official duties" and this has been interpreted as not including authority to reimburse a country for the cost of payment of some claims settled or adjudicated under the "legally responsible" provision of an agreement or in accordance with a local law that is not based on the doctrine of respondent superior. Claims arising out of the acts or omissions of indigenous employees, in the performance of official duty are payable because they are covered by the legally responsible provision of paragraph 5. Article VIII and the implementing statute, as employees of a U.S. Armed Force.

(ii) Also excluded by the implementing law is payment based solely on "owners liability," "inherently dangerous activities," "absolute liability," or similar doctrines of statutory liability. If a bill for a claim in this category is presented, do not make reimbursement. Forward a report to HQ USAF/JACC so special funding arrangements can be made.

(3) *Arbitration fees and expenses.* The agreed pro rata share of foreign country costs under paragraphs (a) (1) and (2) of this section.

(b) *Excluded claims.* (1) Combat claims: A claim arising out of the act of an enemy of the United States or arising, directly or indirectly, from an act of the armed forces, or an armed forces member, while engaged in combat may not be considered or paid under this law (see also Article XV, NATO SOFA).

(2) Administrative expenses incurred by the receiving state.

(3) U.S. Coast Guard claims: The Coast Guard is an armed force covered under NATO SOFA and other agreements of this type. Report Coast Guard activity claims to HQ USAF/JACC so as to obtain reimbursement from HQ Coast Guard for any payments to foreign countries made on their behalf.

(4) Nonappropriated fund claims: Although these claims are covered under NATO SOFA and similar agreements, advance payment or later reimbursement will be obtained from the proper nonappropriated fund (Subpart M of this part).

(c) *Approving authorities.* (1) 10 U.S.C. 2734a and 2734b authorize the Secretary of Defense to reimburse or pay foreign countries under international agreements for the agreed pro rata share of third party or foreign country damage claims covered by these agreements. No monetary limitation on the amount payable is provided. The Secretary of Defense has delegated the authority to the Secretaries of the military departments. (2) The Secretary of the Air Force has redelegated his authority to: (i) *Within HQ USAF.* (*a*) The Judge Advocate General. (*b*) The Assistant Judge Advocate General. (*c*) Chief, Claims Division. (*d*) Assistant Chief, Claims Division. (ii) *Staff Judge Advocates and Deputy Staff Judge Advocates of.* (*a*) USAFE. (*b*) PACAF. (*c*) Twenty-first Air Division. (*d*) Fifth Air Force.

[32 FR 14824, Oct. 26, 1967, as amended at 41 FR 50433, Nov. 16, 1976]

§ 842.73 U.S. receiving state office (SOFA).

(a) *U.S. responsibility.* (1) Under the provisions of reciprocal international agreements which contain claims settlement provisions such as Article VIII, NATO SOFA, and other similar agreement, the United States is responsible for investigating accidents and incidents and processing claims that arise within the continental United States from acts or omissions of:

(i) Members of the forces or civilian components of other parties to applicable SOF Agreements. For example, NATO personnel stationed or assigned in the United States, or engaged in aircraft flights over the United States, as well as students, trainees, members, and employees of NATO countries on official duty in the United States in connection with military "sales agreements", have been determined to be covered by NATO SOFA. Third party claims arising out of their activities

may be presented in the same manner as for U.S. personnel.

(ii) Military or civilian personnel assigned or attached to or employed by international military headquarters under the provisions of the Protocol on the status of international military headquarters (§ 842.69).

(b) *Location of U.S. receiving state office.* The U.S. Army Claims Service, Office of The Judge Advocate General, Fort George Meade, MD 20755, is the U.S. receiving state office for claims cognizable under NATO SOFA and other reciprocal SOF Agreements. (Designated by the Department of the Army, under authority from the Secretary of Defense.)

(c) *Sending states.* These include Belgium, Canada, Denmark, Federal Republic of Germany, France, Greece, Italy, Luxembourg, Netherlands, Norway, Portugal, Turkey, and the United Kingdom.

[32 FR 14824, Oct. 26, 1967, as amended at 41 FR 50433, Nov. 16, 1976]

§ 842.74 Claims procedure in the United States (SOFA).

(a) *Place of filing.* A third party claim should be presented to the commander of the U.S. military department installation nearest the place where the accident or incident occurred but it may be filed at any other installation. The claim and supporting documents must be filed in four copies and must otherwise conform to the regulations of the department of the installation where it is filed. Recommendations for the assertion of Air Force counterclaims or claims against the foreign government for damages to Air Force property will be forwarded through Air Force claims channels to the Chief, U.S. Army Claims Service.

(b) *Processing claims.* The installation that first investigated the accident or incident will normally process the claim under departmental regulations. The claims officer may ascertain by direct communication whether the accident or incident from which the claim arose was investigated by another installation. If it was, he transmits the claim for further processing to the commander of the installation who made the investigation. When the investigation is completed, the claim file will be forwarded in four copies, through Air Force claims channels, to the Chief, U.S. Army Claims Service.

(c) *Official duty claims.* Pursuant to 10 U.S.C. 2734b, tort claims generated by sending state personnel while performing official duties are settled in the manner provided for claims generated by personnel of the armed forces of the United States, that is, under the Military Claims Act (10 U.S.C. 2733) or the Federal Tort Claims Act (28 U.S.C. 2671-2680). Scope of employment determinations are made by sending state officials. Payments made are subject to pro rata reimbursement by the sending state (par. 5, Art. VIII, NATO SOFA).

(d) *Ex Gratia Claims.* After investigating, processing and evaluating, tort claims arising from off-duty activities of sending State personnel are referred by Army authorities to sending State officials for a determination as to whether an ex gratia payment will be offered (paragraph 6, Article VIII, NATO SOFA).

(e) *Settlement authority.* Each of the following Army authorities has been authorized to settle claims arising in the United States under NATO SOFA:

(1) The Chief, U.S. Army Claims Service.

(2) All officers of The Judge Advocate General's Corps assigned to U.S. Army Claims Service, subject to such limitations as the chief of that Service may prescribe.

(f) *Advance payment in aircraft or missile incidents.* The settlement authorities listed in paragraph (d) of this section may make advance payments pursuant to 10 U.S.C. 2736 in meritorious claims that arise in the United States, involve immediate hardship, and result from incidents involving an aircraft or missile within the category of claims covered by reciprocal agreements, including international military headquarters established under such agreements (see § 842.69).

[32 FR 14824, Oct. 26, 1967, as amended at 41 FR 50434, Nov. 16, 1976]

§ 842.75 Lawsuit procedure in United States (SOFA).

The NATO SOFA and other reciprocal agreements of this type provide that claims will be filed, considered, and settled or adjudicated according to the receiving state's laws and regulations that apply to claims arising from the activities of its own armed forces. Adjudication here means action by a competent tribunal of the United States in which a claimant may seek recovery from the United States instead of the sending state.

§ 842.76 Japanese SOFA.

(a) On February 28, 1952, the United States and Japan executed an Administrative Agreement under Article III of the Security Treaty and the occupation was terminated. That agreement was replaced by the Japanese SOFA on June 23, 1960 (11 U.S.T. 1652; T.I.A.S. 4510). Article XVIII relates to claims. The Japanese SOFA is somewhat similar to NATO SOFA, but contains a number of substantial changes:

(1) The U.S. tort-feaser need merely be present in Japan, since the Agreement is not limited to personnel in the territory in connection with duties under the treaty and international agreement.

(2) "Civilian component" is more specifically defined, clearly designating the persons who are included and excluded. The definition includes the phrases "serving with" or "accompanying the armed forces," thereby helping eliminate disputes about status that are sometimes troublesome under the NATO SOFA.

(3) The dual nationality problem is in some measure met by a provision that dual nationals, United States and Japanese, who are brought to Japan by the United States are considered United States nationals for the purpose of the Agreement. The Agreement does not specify the status of civilian U.S. nationals employed by appropriated or nonappropriated fund activities, hired locally, and ordinarily residents in the Japanese territory.

(4) Official duty determinations are made by the nation to which the tort-feaser belongs, but disputes over the validity of these determinations are resolved by submitting the issue to an arbitrator, as in the NATO SOFA.

(5) Paragraph 5(g), Article XVIII, excludes admiralty property damage claims from the liability provisions and procedures of subparagraphs 5(a) through 5(e) of the Article. Such claims are handled under general admiralty procedures if they arise either in Japanese territorial waters or on the high seas in the Japanese area. However, an interpretation of paragraph 5(g) has been negotiated to provide that subparagraphs (a) to (f) of paragraph 5 will apply to small maritime claims of the following types:

(i) Damage to cultivation of marine animals and plants in coastal waters;

(ii) Damage to fish nets;

(iii) Damage to boats of less than 20 tons, involving individual claims of $2,500 or less;

(iv) Damage of similar nature that may be mutually agreed upon through the Joint Committee (Exchange of Notes of August 22, 1960, 11 U.S.T. 2160; T.I.A.S. 4580). On September 7, 1961, the Joint Committee mutually agreed to include the following claims:

(*a*) Damages to cargoes of boats less than 20 tons when individual claims are for $2,500 or less: *Provided,* That when a claimant owns both a boat and its cargo, the claim for the two will be treated as one claim.

(*b*) Damages to lobster pots, octopus pots, long lines, oyster baskets, fish traps and shelters, and similar equipment used by fishermen.

(6) A system of Agreed Views of the Joint Committee under Article XXV of JSOFA has been implemented to resolve questions of interpretation. For example, a "third party" within the meaning of paragraph 5, Article XVIII, is interpreted by an Agreed View as including anyone in Japan other than members or employees of the United States or United Nations armed forces, or their dependents.

[32 FR 14824, Oct. 26, 1967, as amended at 41 FR 50434, Nov. 16, 1976]

90-112 O—82——19

Subpart G—Use of Government Property Claims (10 U.S.C. 2737)

§ 842.80 Scope of subpart.

This subpart governs administrative processing, settling, and paying of claims against the United States (not cognizable under any other law), for damage to or loss of property or for personal injury or death, incident to the use of Government property by Air Force military or civilian personnel.

[41 FR 50434, Nov. 16, 1976]

§ 842.81 Settling claims under this subpart.

See § 842.84.

[41 FR 50434, Nov. 16, 1976]

§ 842.82 Claims and damages not payable.

The following types of claims and elements of damage are excluded:

(a) A claim cognizable under any other provision of law.

(b) A claim for punitive or general damages in personal injury or death cases. Awards are limited to the cost of reasonable medical, hospital, and burial expenses actually incurred.

(c) A claim for medical, hospital, or burial services furnished or paid by the United States.

(d) A claim for property damage, personal injury, or death caused wholly or partly by the negligent or wrongful act of the claimant, his agent, or his employee.

(e) Subrogated claims.

(f) A claim or any part thereof, the amount of which is legally recoverable by the claimant under an indemnifying law or indemnity contract.

(g) Attorney fees—no effort will be made to fix such a fee in connection with the settlement of a claim.

(h) Combat damage claims.

§ 842.83 Settlement authority.

A settlement agreement in full satisfaction of the claim is required before any payment is made.

(a) Claims for more than $1,000 may be considered but cannot be administratively approved or paid in excess of that amount.

(b) The Secretary of the Air Force delegates authority to settle and pay any claims under this subpart to the following persons:

(1) *Claims payable for $1,000 or less.*

(i) Within Hq USAF:

(*a*) The Judge Advocate General.

(*b*) The Assistant Judge Advocate General.

(*c*) Director of Civil Law.

(*d*) Chief, Claims and Tort Litigation Staff.

(*e*) Deputy Chief, Claims and Tort Litigation Staff.

(*f*) Branch Chiefs, Claims and Tort Litigation Staff.

(ii) Staff Judge Advocates of PACAF and USAFE.

(iii) Staff Judge Advocates of single base GCMs, of GCMs in PACAF and USAFE, and their designees.

(iv) The Staff Judge Advocate of each Air Force base, station, and fixed installation, and their designees.

(v) Any judge advocate officer when designated by The Judge Advocate General.

(2) *Disapproval.* A claim may be disapproved by any designee in whole or in part. If total disapproval is warranted, the dollar amount of the claim does not limit a designee's authority to disapprove it.

(3) *Reconsideration.* Approving authorities will comply with the provisions of § 842.8.

(c) The authority to settle claims granted in this section may be reduced, withdrawn, or restored by a superior in claims channels. However, Headquarters USAF/JACC will be notified in writing of any such reduction, withdrawal or restoration of authority by a command subordinate to Headquarters USAF/JACC.

[32 FR 14824, Oct. 26, 1967, as amended at 43 FR 7316, Feb. 22, 1978]

§ 842.84 Settling claims under this subpart.

(A)	(B)	(C)	(D)	(E)	(F)
If any person—	And its proximate cause was—	And the act or omission—	And a claim—	Then he or his representative	Provided
1 Has suffered damage to real or personal property, personal injury, or death.	An act or omission of Air Force military or civilian personnel regardless of whether within their scope of employment.	Was incident to the use of a vehicle of the United States at any place or use of other Government property on a Government installation.	Is not cognizable under any other provision of law.	May present a claim under this subpart.	It is presented within 2 yr of the occurrence of the act or omission that caused the damage or injury and the amount awarded does not exceed $1,000.

[41 FR 50434, Nov. 16, 1976]

Subpart H—Admiralty Claims (10 U.S.C. 9801–9804 and 9806)

SOURCE: 41 FR 50434, Nov. 16, 1976, unless otherwise noted.

§ 842.90 Scope of subpart.

This subpart tells how to settle, pay, and compromise claims for or against the United States that arise from marine accidents or incidents and are not the subject of pending litigation.

[32 FR 14824, Oct. 26, 1967]

§ 842.91 Statutory authority.

Administrative settlement or compromise of admiralty and maritime claims in favor of and against the U.S. by the Secretary of the Air Force or his designee are authorized by the Air Force Admiralty Claims Act (10 U.S.C. 9801-04, 9806 as amended). This statute authorizes the prompt and equitable administrative settlement or compromise of maritime claims. It supplements the following statutes under which suits in admiralty for legal liability may be brought: The Suits in Admiralty Act (41 Stat. 525, 46 U.S.C. 741–752); the Public Vessels Act (43 Stat. 1112, 46 U.S.C. 781–790); and an Act extending the admiralty and maritime jurisdiction (62 Stat. 496, 46 U.S.C. 740). Similar admiralty claims settlement authority is exercised by the Department of the Navy under Title 10, U.S.C. Sections 7365, 7621–23, and by the Department of the Army under Title 10, U.S.C., Sections 4801–04, 4806.

§ 842.92 Waiver of interdepartmental claims.

The interdepartmental waiver procedures of § 842.179 apply to claims under this subpart unless a claim is payable by commercial underwriters. Whenever a waiver appears appropriate, the documented file must be forwarded through claims channels to HQ USAF/JACC for a decision.

§ 842.93 Definitions.

(a) *Vessel.* Every description of watercraft or other artificial contrivance used or capable of being used, as a means of transportation on water (1 U.S.C. 3; AFR 75-29).

(b) *Maritime torts.* In general, claims involving torts committed on navigable waters and those wherein the tortious act occurred on land or in the air but wherein a substantial element of the damage, personal injury or death occurred on navigable waters should be considered maritime in nature and falling within the provisions of the Admiralty Claims Act, 10 U.S.C. 9801, et seq. (see § 842.94). It should be noted, however, that especially in situations where only aircraft are involved, the Supreme Court has held that the activity from which the tortious act emanated must bear some significant relationship to traditional maritime activity. See *Executive Jet Aviation* v. *Cleveland*, 409 U.S. 249 (1970). Advisory opinions as to the applicability of

admiralty law will be rendered by HQ USAF/JACC upon written request.

(c) *Admiralty contracts.* These claims usually arise out of MSC operations and involve vessel procurement and space for commercial ocean transportation of DOD cargo, mail and personnel. Such claims are the sole responsibility of the Office of Counsel, MSC. Claims under Air Force jurisdiction are covered in § 842.94(a)(2).

§ 842.94 Claims against U.S.—claims payable.

(a) Section 9802 of Title 10, U.S.C., as amended on August 29, 1972, provides for the settlement or compromise of admiralty.

(1) Tort claims for damage caused by a vessel of, or in the service of the Department of the Air Force or by other property under the jurisdiction of the Department of the Air Force.

(2) Compensation claims for towage and salvage service, including contract salvage, rendered to a vessel of, or in the service of, the Department of the Air Force or to other property under the jurisdiction of the Department of the Air Force; or

(3) Damage claims caused by a maritime tort committed by any agent or employee of the Department of the Air Force or by property under the jurisdiction of the Department of the Air Force.

(b) As indicated by § 842.99E, claims against the U.S. settled or compromised in a net amount exceeding $500,000 are not payable hereunder, but are investigated and processed under this subpart and, if approved by the Secretary of the Air Force, certified by him to Congress.

(c) For a claim under 10 U.S.C. 9802(a) (2) or (3) as amended (salvage claims) to be payable, the following elements must exist:

(1) It must arise from a marine peril not occasioned by the salvor to a vessel or the cargo.

(2) The services of the salvor must be voluntary and not rendered pursuant to any duty owed to the owner or to the property.

(3) The property or some portion of it must have been saved from the impending peril, and the service rendered must have contributed to such success.

(4) In many instances, so-called salvage efforts amount only to stand-by or towing services, or salvage of abandoned property of no value.

§ 842.95 Claims against U.S.—claims not payable.

A claim is not allowable under this subpart which:

(a) Is for damage to, or loss or destruction of property, or for personal injury or death, resulting directly or indirectly from action by the enemy, or by U.S. Armed Forces engaged in armed conflict.

(b) Is for personal injury or death of a member of the Armed Forces of the United States or a civilian employee incurred incident to his or her service.

(c) Is for the personal injury or death of a Government employee for whom benefits are provided by the Federal Employees' Compensation Act (5 U.S.C. 8101–8150).

(d) Is for the personal injury or death of an employee, including nonappropriated fund employees, for whom benefits are provided by the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1424, 33 U.S.C. 901 et seq., and as extended by 5 U.S.C. 8171–8173).

(e) Has been made the subject of a suit by or against the United States, except as negotiated by HQ USAF/JACC with the approval of the attorney general or his designee.

(f) Arises in a foreign country and was considered by the authorities of a foreign country and final action or other reasonable disposition taken thereon under Article VIII of the NATO Status of Forces Agreement, Article XVIII of the Japanese Administrative Agreement, or other similar treaty or agreement.

(g) Is a claim of military personnel or civilian employees for damage to or loss of personal property occurring incident to their service. Such a claim will be processed under Subpart C (31 U.S.C. 240–243) of this part.

(h) Is a claim within the scope of Subpart E and this subpart and on which HQ USAF/JACC has authorized or directed settlement under Subpart E of this part.

(i) Is a claim within the scope of Subpart M of this part (nonappropriated fund claims). Such claims are processed in a manner consistent with this subpart but paid under the procedures of Subpart M of this part.

§ 842.96 Claims against U.S.—statute of limitations.

(a) Claims against the United States must be approved for settlement or compromise by the Secretary of the Air Force or his designee and accepted by claimant within 2 years from the date cause of action originated. Thereafter no authority for administrative settlement exists. The presentation of a claim, or its consideration by negotiations or correspondence neither waives nor extends the 2-year limitation period. If a timely settlement cannot be accomplished, then the claimant must file suit under the appropriate statute to avoid the limitation bar (46 U.S.C. 745). A claims officer who receives a claim under this chapter, a notice of damage, an invitation to a damage survey, or any other written document indicating an intention to hold the United States liable must advise the claimant or potential claimant of the comprehensive application of this time limit.

(b) Action on affirmative Government claims is time barred unless complaint is filed within 3 (tort) or 6 (contract) years (10 U.S.C. 2415-2416).

§ 842.97 Subrogation.

(a) An insurer is recognized as a claimant under this subpart to the extent that it has become subrogated by payment to, or on behalf of, its insured, pursuant to a contract of insurance in force at the time of the incident from which the claim arose. An insurer and its insured may file a claim either jointly or separately. Joint claims are asserted in the names of, and must be signed by, or on behalf of, all parties; payment then will be made jointly. If separate claims are filed, payment to each party is limited to the extent of such party's undisputed interest.

(b) For the purpose of determining authority to settle or compromise a claim, the payable interests of an insurer (or insurers) and the insured represent merely separable interests, which interests in aggregate must not exceed the amount authorized for administrative settlement or compromise.

(c) The policies set forth in paragraphs (a) and (b) of this section with respect to subrogation arising from insurance contracts apply to all other types of subrogation.

§ 842.98 Claims in favor of U.S. (10 U.S.C. 9803, 9804)—assertable claims.

A claim is assertable if it is:

(a) Within the admiralty jurisdiction of a Federal District Court of the United States or (b) For damage caused by a vessel or floating object to property under the jurisdiction of the Department of the Air Force or to property for which the Department has assumed an obligation to claim for damages, or (c) For towage or salvage services performed by the Department of the Air Force. Customarily, claims for salvage services are limited to operational costs. The costs include such expenses as the per diem charge for the use of the Air Force vessels involved, and loss of or damage to equipment and labor costs.

§ 842.99 Claims in favor of U.S.—nonassertable claims.

(a) Ship cargo claims are cognizable; however, under DOD directive, MSC processes and settles claims for damage to Air Force cargo and private property of its personnel against commercial carriers that arise under Government contracts for ocean transportation of cargo, as well as for charter hire, redelivery, general average, vessel repair contracts, and damage caused by Navy contract stevedores.

(b) Claims against another agency or department of the Federal Government.

§ 842.99A Claims in favor of U.S.—demands.

Demand for the payment of claims in favor of the United States under this section may be made only by HQ USAF/JACC (see §§ 842.66 and 842.121). However, the investigating claims officer immediately serves

notice of the damage on the owners of other property or their agents.

§ 842.99B Settlement authorities.

The statutorily allowable delegation of settlement authority is in § 842.99E. These authorities also include disapproval authority (10 U.S.C. 9801).

§ 842.99C Finality of settlement.

A settlement or compromise, on acceptance of payment by the claimant, is final and conclusive, notwithstanding any other provision of law (10 U.S.C. 9802, 9803). In conformance with commercial practice, the settlement check may be exchanged for executed releases, in claims against the United States. If such an exchange is impracticable, a claimant may be requested to forward the executed release by mail, on the understanding that the release does not become effective until the payment check is received.

§ 842.99D Reconsideration.

Under the circumstances contemplated in § 842.8, any settlement authority under this subpart may reconsider the previous action taken.

§ 842.99E Settlement authority for claims for and against the United States (see note 1 in this section).

Rule	If amount to be paid or received is— (A)	And claim is— (B)	Then the Secretary of the Air Force— (C)	And— (D)
1	More than $500,000	Against the United States.	May settle or compromise	If he makes an award over $500,000 certify it to Congress for payment
2		In favor of the United States.	May not settle, compromise, or receive payment.	HQ USAF/JACC will refer claim to Department of Justice
3	$500,000 or less	Against the United States.	May settle, compromise, and pay or receive payment.	
4		In favor of the United States.		
5	$10,000 or less	Against the United States.	Has delegated authority to settle or compromise and pay or accept payment to the judge advocate general, the assistant judge advocate general, and the Chief and Assistant Chief, Claims and Tort Litigation Division.	
6		In favor of the United States.		

NOTES: 1. A demand for payment in favor of the United States may be made only by HQ USAF/JACC. 2. Certain Government-to-Government property damage claims and third-party personal injury and death claims are covered under NATO SOFA or other procedures. 3. HQ USAF/JACC may authorize the settlement of an admiralty claim against the United States under example, full damages are not payable for loss of profits for unprocessed fish; convenience; the statute of limitations has run on the claim.

Subpart I—Claims Under the Federal Tort Claims Act (28 U.S.C. 2671–2680)

§ 842.100 Scope of subpart.

This subpart governs administrative settlement and payment of claims against the United States (except those that arise in a foreign country) for damage to or loss of property, or for personal injury or death resulting from the negligent act or omission of Air Force military or civilian personnel while acting within the scope of their employment.

§ 842.101 General provisions.

(a) The Federal Tort Claims Act commits the United States to the same tort liability, with certain stated exceptions, as a private person under the law of the place where the negligent or wrongful act or omission occurred. For claims arising on or after 18 Janu-

ary 1967, the Act authorizes administrative settlement and payment without limit, although payments in excess of $25,000 require written approval, in advance, of the Attorney General or his designee (28 U.S.C. 2672).

(b) The Federal Tort Claims Act does not authorize payments as a matter of grace, but confers a legal cause of action. It permits suit against the United States in the District Courts, but only after an administrative claim has been finally denied in writing by the appropriate agency and the claimant advised by certified or registered mail. If the agency fails to make final disposition of the claim within 6 months after it is filed, the claimant may, at his option, consider this as denial of the claim. While the Act is not specific on this point, a final offer of settlement in an amount less than the claim is considered to be a denial. The requirement for filing an administrative claim does not apply to claims that are asserted by third party complaint, cross-claim, or counterclaim.

[41 FR 50436, Nov. 16, 1976]

§ 842.102 Proper claimants.

Claimants are not defined in the Act. Anyone may file a claim unless restricted by other statutes or by court decisions (see § 842.111).

[41 FR 50436, Nov. 16, 1976]

§ 842.103 Cognizable claims.

To be cognizable under the Federal Tort Claims Act, a claim must be for damage, injury, or death proximately caused by a negligent or wrongful act or omission of military or civilian personnel. The person who caused the damage, injury, or death must have been acting within the scope of his employment, and it must have occurred under circumstances that would make the U.S., if a private citizen, liable to the claimant under local law.

(a) *Who is included in term "employee" (28 U.S.C. 2671).* Employee includes officers or employees of any Federal agency, members of U.S. military or naval forces, and persons acting in an official capacity for a Federal agency, whether temporarily or permanently in the service of the U.S. with or without compensation. It may include Civil Air Patrol (CAP) members when the CAP is acting under Air Force direction, and Air Force officers and airmen assigned to duty with Air Force Reserve Officer Training Corps (AFROTC) units, but does not include Air National Guard (ANG) members, or employees of independent contractors. See Subpart K for ANG claims; Subpart M for nonappropriated fund claims; and Subpart N for CAP claims.

NOTE: Effective 1 January 1969, National Guard technicians employed under 32 U.S.C. 709 became Federal employees, and claims arising out of their scope activities on or after that date will be presented as any other claim against the Air Force. However, a savings provision in the amendatory law retains settlement authority under 32 U.S.C. 715. See chapter 14 for any claims arising out of their activities before that date.

(b) *Determining scope of employment.* The Department of the Air Force is liable under this chapter only for the negligent or wrongful act or omission of its military or civilian personnel while acting within the scope of their employment. (The phrase "acting in line of duty," used in the statute, 28 U.S.C. 2671, means acting within the scope of employment. It should not be confused with line of duty determinations under AFR 35-67, which is a completely different matter.) See Subpart G for nonscope claims.

(1) The same test will be applied to military and civilian personnel to determine scope of employment. Ordinarily, a person is within the scope of employment if his actions at the time of the negligent or wrongful act or omission were directed, expressly or impliedly, by competent authority and were, at least in part, for the purpose of serving the Government.

(2) All facts and circumstances will be considered, including those listed below, to determine whether conduct, although not expressly directed, is nevertheless within the scope of employment. The law of the place where the act or omission occurred will be applied.

(i) Time, place, and purpose of the activity. Ordinarily a slight deviation as to time or place does not constitute

a departure from scope of employment. A deviation must be material to take the activity out of scope of employment.

(ii) Whether the activity was for the furtherance of the general interest of the Air Force.

(iii) Whether the activity is usual for personnel of the grade and classification involved or reasonably to be expected of such personnel.

(iv) Whether the instrumentality from which the damage or injury resulted was owned or furnished by the Air Force.

(3) When the damage or injury resulted from military or civilian personnel operating their privately owned vehicles, their acts or omissions are generally not considered within the scope of employment. This includes accidents arising out of the use of privately owned vehicles (POVs) on permanent change of station (PCS) and temporary duty (TDY) (whether or not delay en route is authorized), and on local trips. Tort claims presented to the Air Force alleging that military or civilian personnel caused damage or injury while operating POVs will not be settled below HQ USAF level without the advance approval of HQ USAF/JACC. Forward all such claims to HQ USAF for review and any necessary consultation with the Department of Justice.

(c) *Proximate cause.* The proximate cause is the immediate or motivating cause, involving a natural and continuous sequence unbroken by an effective intervening cause. All questions of proximate cause, including questions pertaining to joint tort-feasors, are determined according to local law.

(d) *Basis and extent of liability.* (1) Apply the law of the place where the act or omission occurred to questions of contributory or comparative negligence and joint tort-feasors liability. When there is a conflict between local law and an express provision of the Federal Tort Claims Act, the Act governs.

(2) If local law applies the doctrine of comparative negligence, damages may be apportioned commensurate with fault in the same manner as in suits against private individuals. Thus, it is important that a claims officer have a working knowledge of local law, especially in the fields of dangerous instrumentality, assumption of risk, res ipsa loquitur, measure of damages, last clear chance, discovered peril, and comparative and contributory negligence.

(3) The statement in the Act that the United States is liable if a private person would be liable does not mean that the Government can be sued only if a private person can be sued under identical circumstances. The fact that the Air Force is performing a function that private individuals do not usually perform does not excuse the United States from liability for the negligence of its employees in performing the function.

(e) *Claimants who are employees of Government contractors and subcontractors.* Claims for personal injury or death of employees of contractors or subcontractors injured or killed on the job while working on Government contracts will not be approved below HQ USAF level, without the advance approval of HQ USAF/JACC. Staff judge advocates will forward all such claims to HQ USAF for review and any necessary consultation with the Department of Justice. They will also include in the forwarding file information on workmen's compensation coverage.

[32 FR 14824, Oct. 26, 1967, as amended at 41 FR 50436, Nov. 16, 1976]

§ 842.104 Claims not cognizable.

A claim is not cognizable under this subpart if it arises:

(a) From act or omission of military or civilian personnel exercising due care in executing a statute or directive, regardless of whether the statute or directive was valid.

(b) From the exercise or performance of, or failure to exercise or perform, a discretionary function or duty by a Federal agency or a Government employee, regardless of whether the discretion involved is abused.

(c) Out of loss, miscarriage, or negligent transmission of letters or postal matters.

(d) In connection with assessment or collection of any tax or customs duty, or detention of any goods or merchan-

dise by any customs or excise officer or other law enforcement officer.

(e) From admiralty causes for which a remedy is provided by 46 U.S.C. 741-799.

(f) From an act or omission of any Government employee in administering the Trading With the Enemy Act (50 U.S.C. App. 1-31).

(g) From damages caused by imposing or establishing a U.S. quarantine.

(h) From willful torts, assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, negligent or intentional misrepresentation, deceit, or interference with contract rights, but see the 1974 amendment to 28 U.S.C 2680(b).

(i) From combat activities of military forces.

(j) During periods of national emergency.

(k) From a flood.

(l) From the inherent risk in a given activity and the individual has accepted that risk by signing a "covenant not to sue" or any other release effective under local law.

(m) When the Government takes an easement in air space over land.

(n) From damage to property of U.S. Government departments or agencies.

(o) In a foreign country.

(p) Incident to the service of a member of the Armed Forces. See § 842.111, rule 2, note 1.

(q) From personal injury or death in the course of employment of a civilian employee of the U.S. and where the claim is otherwise cognizable under statutes designed by law as an exclusive remedy, such as the Federal Employees' Compensation Act (5 U.S.C. 8101 et seq.; § 842.111, rule 6); or from any alleged pension rights (28 U.S.C. 1346(d)).

[33 FR 2387, Jan. 31, 1968, as amended at 41 FR 50436, Nov. 16, 1976]

§ 842.105 Statute of limitations.

(a) *Presenting claim.* A claim must be presented in writing within 2 years after it accrues.

(1) A claim is considered to have been presented when the Air Force receives an executed SF 95 or written notification of an incident, together with a claim for money damage, in a sum certain, for property loss or damage, personal injury or death from a claimant, his duly authorized agent, or his legal representative.

(2) The times of claim accrual is governed by Federal, not State law. A claim accrues at the time the claimant discovers, or in the exercise of reasonable diligence should have discovered, the existence of the act which resulted in the damage for which the claim is made. (Hungerford v. United States, 307 F. 2d 99 (9th Cir. 1962).)

(3) In computing time to determine whether the period of limitation has expired, exclude the first day and include the last day.

(4) A claim presented in compliance with this section may be amended by the claimant at any time prior to final agency action or prior to exercise of claimant's option under 28 U.S.C. 2675(a). Amendments shall be submitted in writing and signed by the claimant or his duly authorized agent or legal representative. Upon the timely filing of an amendment to a pending claim, the agency shall have six months in which to make a final disposition of the claims as amended and the claimant's option under 28 U.S.C. 2765(a) shall not accrue until six months after the filing of an amendment.

(b) *Filing suit.* Claimants are required to file administrative claims before they may sue. Suit may be brought after the claim has been finally denied and the claimant notified in writing, or if the Air Force has not disposed of the claim within 6 months after it is filed. The claimant may consider partial approval as a denial. This requirement will not apply to third party complaints, cross-claims, or counterclaims.

(c) *Presenting a reduced claim.* If a claim for more than $2,500 is presented within 2 years after it accrues, the time limit may not be extended to permit resubmission in an amount of $2,500 or less. The reduced claim also must be presented within 2 years after the claim accrues. This provision does not apply to claims accruing subsequent to January 18, 1967.

[32 FR 14824, Oct. 26, 1967, as amended at 33 FR 2387, Jan. 31, 1968. Redesignated and amended at 41 FR 50437, Nov. 16, 1976]

§ 842.106 Government's right of indemnity.

The United States after being subjected to liability under the Federal Tort Claims Act, is entitled to indemnity from a contractor who specifically assumed responsibility for such damages. However, it cannot recover indemnity from its negligent employee after payment of a claim or judgment. If the Government employee whose negligence gives rise to an action against the United States is insured under a policy that includes as an insured anyone who is held responsible for an accident of the policy holder, claims settlement authorities should encourage direct settlement between claimant and the employee's insurer. EXCEPTION: Do not refer a medical malpractice claim to the insurer of the person alleged to have been negligent without advance approval of HQ USAF/JACC. When settlement is made by any insurer or joint tortfeasor and an additional award is warranted, an award may be made if the United States is not protected by the release executed by the claimant and the total amount received from such collateral sources is first deducted.

[41 FR 50437, Nov. 16, 1976]

§ 842.107 Suits against individuals.

Under general legal theory, a plaintiff may sue either the master or the servant for damage which arises from an act or omission of a servant engaged in the scope of his employment. The Federal Tort Claims Act, however, has been made the exclusive legal remedy for claims that arise from the operation of any motor vehicle by any employee of the Government within the scope of employment. If a member or employee is used in a State court in his individual capacity, the Attorney General of the United States defends the suit. He may either have it removed to a Federal Court or settle or compromise it in the same manner as other claims under the Federal Tort Claims Act.

[32 FR 14824, Oct. 26, 1967. Redesignated at 41 FR 50437, Nov. 16, 1976]

§ 842.108 Attorneys' fees.

Claimant's attorney may be advised that attorney fees may not exceed 20 percent of the award; however, the Air Force has no authority to fix the amount.

[41 FR 50437, Nov. 16, 1976]

§ 842.109 Alternative remedies available to claimants.

A claimant must file an administrative claim before he can file a suit. A suit must be filed not later than six months after notification in writing by certified or registered mail of the final denial of the claim, or at his option, the claimant may, upon failure of the Air Force to make final disposition of his claim within six months after it is filed, consider the claim to have been finally denied and file suit. When he does bring suit after filing a claim with the Federal Government, the suit may not be for a larger amount than the claim unless he presents proof of:

(a) Newly discovered evidence not reasonably discoverable when the claim was filed; or

(b) Intervening facts that relate to the amount of the claim.

[41 FR 50437, Nov. 16, 1976]

§ 842.110 Settlement authority.

Authority to consider, adjust, determine, compromise, settle, deny, and pay any claim against the U.S. under this statute is delegated as follows:

(a) *Any claim accruing on or after 18 January 1967, presented in any amount.* Such a claim may be settled or compromised, provided the principal claim and any derivative or subrogated claim is treated as a single claim, and it is:

(1) *Payable in excess of $25,000 subject to the prior written approval of the award, compromise or settlement by the Attorney General or His Designee.* (i) The Judge Advocate General.

(ii) The Assistant Judge Advocate General.

(2) *Payable for $25,000 or less.* (i) The Judge Advocate General.

(ii) The Assistant Judge Advocate General.

(iii) The Director of Civil Law.

(iv) Chief, Claims and Tort Litigation Staff.

(v) Deputy Chief, Claims and Tort Litigation Staff.

(vi) Branch Chiefs, Claims and Tort Litigation Staff.

(3) *Payable for $15,000 or less.* Staff Judge Advocates of PACAF and USAFE, and their designees.

(4) *Payable for $7,500 or less.* Staff Judge Advocates of single base GCMs, of GCMs in PACAF and USAFE, and their designees.

(5) Payable for $2,500 or less. (i) The Staff Judge Advocate of each Air Force base, station, and fixed installation and their designees.

(ii) Any judge advocate officer when designated by The Judge Advocate General.

(b) *Settlement procedures.* Approving authorities will follow the procedures required by Subpart A of this part, and this subpart. Claims in excess of the monetary limits of MAJCOM approving authorities will be investigated, reported, and forwarded.

(c) *Reconsideration.* Approving authorities will comply with the provisions of § 842.8 that apply to claims processed under this chapter. Upon timely filing of a request for reconsider, that approving authority shall have six months from the date of filing which to make a final disposition of the request and the claimant's option to sue under 28 U.S.C. 2675(a) shall not accrue until six months after filing of the request.

(d) *Compromise*—(1) *Definition.* An agreed equitable settlement is based on practical factors—trial risk, the uncertainties of the facts (bona fide dispute), an evaluation of the credibility of witnesses, the availability of witnesses and other evidentiary support, and related practical considerations—including the application of the law to the facts in determining either liability or damages and the precedent value of settlement.

(2) *Authority.* (i) There is no statutory authority for the administrative compromise of any claim that accrued before 18 January 1967, although the Attorney General may compromise any lawsuit under 28 U.S.C. 2677.

(ii) Any designee of the Secretary under paragraph (d)(2)(ii)(*a*) of this section may compromise any claim as herein authorized, regardless of the amount claimed, provided an award not in excess of his monetary payment limit is accepted by the claimant in full satisfaction and final settlement of the claim. Attempts to negotiate a compromise within this authority are to be accomplished without prejudice the same as settlement negotiations. The claim file should clearly reflect the questions of legal liability, proof, etc., and the probability of the claimants prevailing on the legal and factual issues involved, and estimates of the cost to the Government of litigation, so the decision to compromise is fully supported. The approving authority will always consider the following essential factors in determining whether a compromise is desirable.

(*a*) Whether there was any negligent or wrongful act or omission of an Air Force employee that was a proximate or a contributing cause of the accident or incident and the risk of Government liability if litigated.

(*b*) Reasonableness of the claimant's current demand or offer (damages, nature of injuries, substantiation of claim, claimant's risk of litigation, and possible costs).

(e) *Disapproval.* A claim may be disapproved by any designee in whole or in part. If total disapproval is warranted, a designee's authority below HQ USAF is limited by the dollar amount of the claim. Claims presented in excess of their authority must be forwarded through claims channels to the staff judge advocate or other officer who possesses such settlement authority.

(f) *Authority to reduce, withdraw, and restore settlement authority.* The settlement authority granted in this section may be reduced, withdrawn, or restored by a superior in claims channels. However, any command subordinate to Headquarters USAF/JACC shall report such reduction, withdrawal, or restoration to Headquarters USAF/JACC in writing.

[41 FR 50437, Nov. 16, 1976, as amended at 43 FR 7316, Feb. 22, 1978]

§ 842.111 Proper claimants under the Federal Tort Claims Act.

Rule	If a claimant is— (A)	And damage, injury or death— (B)	Then he is— (C)
1	Anyone not otherwise restricted	Was caused under such circumstances that the United States, if a private person, would be liable.	A proper claimant.
2	A member of a U.S. Armed Force in active Federal service.	Was not incident to his service	A proper claimant (note 1).
3	Do	Was incident to his service	Not a proper claimant (note 1).
4	A dependent of a member or employee of a U.S. Armed Force.	Claim is otherwise cognizable	A proper claimant.
5	A subrogee of a proper claimant	Claim is otherwise cognizable	A proper claimant (note 2).
6	A U.S. civilian employee (note 3)	Was incurred while in the performance of his duties, including official travel under orders.	Not a proper claimant (note 3).
7	A Reserve of a U.S. Armed Force	Was suffered incident to his service during inactive duty training.	Not a proper claimant (note 1).
8	A member of the National Guard	Was suffered incident to his inactive duty training or active duty under State orders.	
9	A member of the CAP	Was incurred while performing an Air Force assigned mission.	Not a proper claimant (note 4).
10	A civilian employee of a nonappropriated fund (NAF) activity.	Was incurred in the performance of his duties, including travel under orders.	Not a proper claimant (note 5).
11	A retired member of a U.S. Armed Force.	Claim is otherwise cognizable	A proper claimant (note 6).
12	A member of the ROTC	Was incurred in line of duty (flight instruction or authorized travel to or from, or while attending field training or a practice cruise).	Not a proper claimant (note 7).

NOTES: 1. Whether incurred incident to service is not determined alone by whether the serviceman was on or off the military reservation, on pass, furlough, or leave although these factors have a bearing. A determination ultimately depends on whether his actions at the time of damage were in the course of activities incident to his service. Ordinarily the Military Personnel and Civilian Employees' Claims Act (31 U.S.C. 240–242) is a proper remedy for any incident-to-service property damage except for on base POV's: Compensation for injury and death is provided for by a statutory scheme not depending on fault for payment. 2. If claim has been wholly compensated by insurance, settlement will be with subrogated insurer alone. If there is only partial subrogation, the insurer and insured may present joint or separate claims. 3. See 5 U.S.C. 8101 for the definition of the term "employee" as used in the Federal Employee's Compensation Act (5 U.S.C. 8101–8150). The compensation benefits provided by this act are their exclusive remedy (see note 1 for property damage). Accordingly, if a claim by a civilian employee has been presented for processing under this chapter and a valid and substantial question exists as to the appropriate remedy available, but the employee has not presented a FECA claim, he will be advised of his right to do so by the staff judge advocate processing the AFM 112–1 claim. Settlement of a claim under AFM 112–1 will also be deferred whenever a valid and substantial FECA question exists, a FECA claim is pending before the Bureau of Employees' Compensation, or a claim is contemplated. This policy also applies to claims of members of the CAP and NAF employees (see rules 9 and 10, and notes 4 and 5). 4. See note 3 and 5 U.S.C. 8141(c). However, CAP personnel are not proper claimants under subpt. C, and if their property damage was caused by Air Force personnel, subpts. D, G, H, or I may apply. 5. See 5 U.S.C. 2105(c). 8171–8173, and note 3. 6. Claims for damage or loss of personal property on retirement orders movement (note 1). 7. See 5 U.S.C. 8140, and notes 3 and 4.

[41 FR 50438, Nov. 16, 1976]

§ 842.112 Damages payable and not payable.

Rule	If damage is— (A)	Then damage is— (B)
1	Personal injury or death, or pain and suffering preceding death (para. 4–18 and note).	Payable, if authorized by local law.
2	To property	Payable.
3	Punitive damage, even though State law permits such an award against a private person.	Not payable.
4	Reimbursement for medical or hospital services furnished at expense of the U.S. Government.	
5	Reimbursement for burial expenses paid by the U.S. Government	

NOTE: Proceeds from private insurance policies should not be taken into consideration in computing damage, but compensation and benefits from the Veterans' Administration, or monetary value received from any U.S. Government-associated source, are deductible from any payment, except that sick and annual leave payments are deductible only when in accord with local law.

[41 FR 50438, Nov. 16, 1976]

Subpart J—Property Damage Tort Claims in Favor of the United States (31 U.S.C. 71, 951–953)

SOURCE: 41 FR 50439, Nov. 16, 1976, unless otherwise noted.

§ 842.120 Scope of subpart.

This subpart governs administrative determination, assertion, and collection of claims for damage to, or loss or destruction of, Government property through a negligent act or omission.

[32 FR 14824, Oct. 26, 1967]

§ 842.121 Assertable and nonassertable claims.

Rule	If the tort claim is— (A)	And— (B)	Then it is— (C)
1	For damage to or loss of Government property (note 1).	Resulted from a negligent act or omission, and is for more than $100.	Assertable.
2	Is less than $100 but collection cost would be minimal.		
3	Resulted from a negligent act or omission of an employee of a nonappropriated fund acting within the scope of his employment (note 2).	Not assertable.	
4	Against a foreign government	Is not specifically authorized by HQ USAF/JACC (table 13–2, note 1).	
5	Assertable under a contract	An Air Force contracting officer has determined that either settlement cannot be made under the contract or that such settlement would be too expensive (note 3).	Assertable.
6	For damage to or loss of nonappropriated fund property.	Is excluded by § 842.156	
7	Against a person who has command, supervisory, or custodial responsibility for the damaged or lost property (note 4).	And is cognizable under report of survey proceedings.	
8	For reimbursement for damage arising from negligence of military or civilian personnel.	The United States has paid a 3d-party claim based on the negligence (note 5).	Not assertable.
9	For property damage arising from the same incident that caused a hospital recovery claim.	The 2 claims are consolidated and processed under Subpart L (note 6).	
10	Assertable as a counterclaim under an international agreement.	Section 842.68 applies	

NOTES: 1. Assert claim when evidence indicates a 3d party not having command, supervisory, or custodial responsibility for Government property may be liable in tort, even though a report of survey to determine property accounting responsibility has been processed. 2. The interdepartmental waiver applies to claims against and in favor of these Federal activities (§ 842.178). 3. Even though the decision of a contracting officer acting within the authority of his warrant is binding upon the government, that decision does not necessarily extend to questions of tort liability. Consequently, if a contracting officer refuses to assert a claim on the grounds that it is not a contract claim, forward the file through claims channels to HQ USAF/JACC. 4. Reports of survey relate to property accounting responsibility (pecuniary liability) and collection of any charges raised against persons with command, supervisory, or custodial responsibility (see AFR's 67–10 and 85–1 and AFM's 67–1 and 177–111; 10 U.S.C. 9835; 31 U.S.C. 89, 90; 37 U.S.C. 1007). 5. Investigate the property damage portion, including products liability claims under this subpart.

§ 842.122 Statute of limitations.

Tort claims asserted by the Government under 31 U.S.C. 71, 951–953 will be barred if suit is not filed within 3 years from the date the cause of action accrues (28 U.S.C. 2415–2416). Therefore, such claims must be processed expeditiously.

§ 842.123 Counterclaims.

When it is apparent to a settlement authority that a debtor or his insurer has presented a claim to the Government that arises out of the same incident that gives rise to the claim against the debtor, process both claims together. Any action on the claim in favor of the Government will be consistent with the determination made on the claim against the Government.

§ 842.124 Base Staff Judge Advocate's responsibilities.

See § 842.127.

(a) If the amount claimed is $5,000 or less, he may administratively col-

lect, compromise, or suspend or terminate collection action on the claim.

(b) If the amount claimed exceeds $5,000 and after negotiation it cannot be collected in full, he will forward the file through claims channels recommending the advisability of accepting any compromise offer, instituting suit, or suspending or terminating collection action.

§ 842.125 Supervisory claims authority responsibilities.

(a) Each supervisory claims authority must insure that every potential claim in favor of the Government within his jurisdiction is discovered promptly, investigated fully, and pursued vigorously. Since the singular most important step in the collection of claims in favor of the Government is the discovery of potential claims, the supervisory authority will assure that Staff Judge Advocates within his jurisdiction are employing all means possible to be apprised of such claims. The supervisory authority must also provide continuing assistance and guidance to such Staff Judge Advocates to preclude the nondiscovery, incomplete investigation, and inadequate pursuant of valid government claims. In addition to the foregoing, the following settlement authorities are authorized to administratively collect, compromise, or suspend or terminate collection action on claims under this chapter for the amounts indicated:

(1) *$20,000 or less.* (i) The Judge Advocate General.

(ii) The Assistant Judge Advocate General.

(iii) Director of Civil Law.

(iv) Chief, Claims and Tort Litigation Staff.

(v) Deputy Chief, Claims and Tort Litigation Staff.

(vi) Branch Chiefs, Claims and Tort Litigation Staff.

(2) *$15,000 or less.* Staff Judge Advocates of PACAF and USAFE, and their designees.

(3) *$7,500 or less.* Staff Judge Advocates of single base, GCM , of GCMs within PACAF and USAFE, and their designees.

(b) If the amount claimed exceeds the jurisdictional level indicated and cannot be collected in full, the responsible Staff Judge Advocate will forward the claim to his supervisory claims authority recommending the advisability of accepting any compromise offer, initiating suit or suspending or terminating collection action. In the Office of The Judge Advocate General if the amount claimed exceeds $20,000 and cannot be collected in full it will be reported to the Department of Justice.

(c) *Authority to reduce, withdraw, or restore administrative collection authority.* The administrative collection authority granted in § 842.124 and this section may be reduced, withdrawn, or restored by a superior in claims channels. However, any command subordinate to Headquarters USAF/JACC shall report any such reduction, withdrawal, and restoration to Headquarters USAF/JACC in writing.

[32 FR 14824, Oct. 26, 1967, as amended at 43 FR 7316, Feb. 22, 1978]

§ 842.126 Termination for the convenience of the Government.

A claim under this subpart for more than $10,000, once asserted, can only be terminated by HQ USAF/JACC. If the base staff judge advocate or supervisory claims authority determines that no further action should be taken on a claim, they will forward it through claims channels to HQ USAF/JACC, giving reasons for the recommendation.

§ 842.127 Responsibilities of base staff judge advocate.

Rule	If— (A)	Then the staff judge advocate— (B)
1	He receives a claim file	Reviews it and takes any action necessary to insure that it is complete.
2	Full payment of a claim is not tendered	Makes a written determination of liability or nonliability of the debtor, states the amount of damage, and gives reason for his determination, then attaches the written statement to the claims officer's report.
3	Voluntary payment in full accompanies the report	Accepts payment, deposits it with the nearest finance officer for credit to miscellaneous receipt account,
4	An acceptable offer of compromise accompanies the report and the amount claimed is $5,000 or less.	And enters action in the report (31 U.S.C. 484).
5	A claim file is not accompanied by an offer or payment and the debtor is liable.	Makes a written demand on the debtor for payment in full and attaches a copy of the demand and any response he receives to the claim file.
6	An acceptable payment is received in response to the demand in rule 5B above by either lump sum or installment.	Deposits the check and takes action on the claim file as in rule 3B above.
7	Debtor fails to respond to 2 letters at 30-d intervals, or makes an unsatisfactory final compromise offer, or makes a final offer not within the staff judge advocate's jurisdiction.	Forwards the case to the GCM, recommending disposition to be made.
8	Authorized by HQ USAF/JACC	Investigates a potential claim against a foreign government and forward it to HQ USAF/JACC Washington, D.C. 20314, for action (see notes 1 and 2).
9	A foreign country voluntarily pays in full for damage to or destruction of U.S. property or offers to repair or replace it and the responsible officer concurs.	Accepts the offer and immediately notifies Claims Division (AF/JACC).

NOTES: 1. Claims against foreign governments are not made unless specifically authorized by HQ USAF/JACC. The Department of State has jurisdiction over government-to-government claims, and some property damage claims are waived in whole or part under international agreements (§ 842.66). 2. If the potential claim involves a wholly owned Government corporation, investigate the incident after notifying the corporation of the investigation and giving it an opportunity to participate. HQ USAF authority to assert the claim is still required even though claims against some foreign government corporations (e.g., railroad, air lines, stevedore companies) have been authorized.

Subpart K—Air National Guard Claims (32 U.S.C. 715)

SOURCE: 41 FR 50440, Nov. 16, 1976, unless otherwise noted.

§ 842.130 Scope of subpart.

This subpart governs the administrative settlement and payment of claims for damage to or loss of property, personal injury, or death that was either caused by a member of the Air National Guard, not on active Federal service, while engaged in training or duty under Federal law, and acting within the scope of his employment; or otherwise incident to noncombat activities of the ANG not in active Federal service.

§ 842.131 Statutory authority.

(a) The provisions of 32 U.S.C. 715 are similar to 10 U.S.C. 2733 and the administrative payment limit is $25,000 with authority to refer any excess to the Congress for payment. It does not confer a legal cause of action. Claimants dissatisfied with an administrative settlement under this statute have the right to appeal to the Secretary of the Air Force or his designee but have no legal right to initiate suit against the United States. State National Guard members are "State" employees until called or ordered to active Federal service. Members of the National Guard or their heirs also are barred under the "incident to service" rule from filing a claim or lawsuit against the U.S. for injury or death while engaged in State ANG training or duty (32 U.S.C. 715(b) (3)).

(1) The status of members of the National Guard (ARNG and ANG) of the several States, while engaged in training or duty required by Federal law to retain their Federal recognition (32 U.S.C. 323), has been settled by law and by the Federal Courts. These cases held that military members of

the NG, not in active Federal service, were not U.S. employees within the meaning of the Federal Tort Claims Act. However, the status of NG technicians employed under 32 U.S.C. 709 was changed by law (Pub. L. 90-486, 82 Stat. 755), effective 1 January 1969. On that date they became U.S. civilian employees, but only as to claims accruing from their acts or omissions on or after that date (32 U.S.C. 715, as amended). A savings provision in the amendatory Act retained 32 U.S.C. 715 settlement authority relating to any claim that accrued under its provisions from an act or omission of such a person before 1 January 1969.

§ 842.132 Definitions.

(a) *Air National Guard (ANG) Personnel.* This includes members of the ANG engaged in training or duty required by Federal law (32 U.S.C. 316, 501-505, or 37 U.S.C. 206).

(b) *Claimant.* This includes any individual, partnership, association, corporation, country, State, Commonwealth, territory or a political subdivision thereof, or the District of Columbia, presenting a claim and meeting the conditions set forth in § 842.1. The term does not include the U.S. Government, any of its agencies or instrumentalities, except as prescribed by statute, or a State which maintains the unit to which the ANG personnel causing the damage, injury, or death are assigned. However, this exclusion does not ordinarily apply to a unit of local government which does not control the ANG organization involved. As a general rule, a claim by a unit of local government other than a State will be cognizable unless the item claimed to be damaged or lost was procured or maintained by State funds (§ 842.135).

(c) *State.* Unless otherwise indicated in this subpart, "State" means the several States, or any other jurisdiction authorized to maintain a National Guard.

(d) *ANG Duty or Service.* There are two types of duty assignments or orders used by ANG units for the training of members of the ANG under title 32 U.S.C. Ordinarily State ANG members perform their duties in an "inactive" State duty status, although ANG flight or other orders may be issued. However, full-time State training duty orders may be published for ANG maneuvers, encampments, exercises, military schools, and other short tours of ANG training or duty (military conferences, etc.), which are not calls or orders to active Federal service, as a State has no such authority (32 U.S.C. 501-505; 10 U.S.C. 331-336, 672(d), 8500). Active State service generally means duty not authorized by Federal law, but required of the militia and paid by State funds.

§ 842.133 Claims and claimants.

(a) See § 842.134 and § 842.135.

(b) *Remedies available.* A claimant may elect to pursue any or all available remedies authorized by State, Federal or other law. Some claimants may file a claim or action against the State and/or the member of the ANG involved either before simultaneous with a claim against the U.S., or thereafter, which could result in dual recovery for the same damages.

§ 842.134 General provisions for settling ANG claims.

(A)	(B)	(C)	(D)	(E)
Statutory authority	Statute of limitations	Settlement and appellate authority	Emergency payments	Proximate cause and contributory negligence
32 U.S.C. 715	2 yr	As shown in para. 7-10 (but see note 1). § 842.49.	See § 842.8	Provisions of § 842.47.

NOTE: 1. Except that a claim arising in a foreign country will not be settled under this subpart without the prior approval of HQ USAF/JACC (10 U.S.C. 672(d), 8500; 32 U.S.C. 501).

§ 842.135 Claims and claimants.

Claims		Claimants	
Cognizable	Not payable	Proper	Excluded
(A)	(B)	(C)	(D)
Claims caused by a member of the ANG, while engaged in training or duty under 32 U.S.C. 316, 502-505, or 37 U.S.C. 206, and acting within the scope of his employment; or otherwise incident to the noncombat activities of the ANG (table 7-2; notes 1 and 2).	Claims shown as nonpayable in table 7-2 and when the State has waived sovereign immunity or provided adequate liability insurance (column D).	Any person (or his agent or legal representative) who suffers personal injury or death or damage to or loss of real property (including that incident to use and occupancy) or personal property (including that bailed to the United States or ANG, and registered or insured mail damaged, lost, or destroyed by a criminal act while in possession of ANG). Subrogees (see note 2). States and their agencies and political subdivisions (except the State maintaining the offending ANG unit).	Members and employees of U.S. Armed Forces, including ANG military and civilian employees under 32 U.S.C. 709 who suffer personal injury or death incident to service (note 3). ANG members who sustain personal property loss or damage other than vehicle while engaged in inactive duty training under Federal law (but see note 4). Those whose claims are cognizable under another chapter of this manual. U.S. Government agencies and departments. A State to which the ANG unit causing the damage or injury belongs. A national, or a corporation controlled by a national, of a country at war or engaged in armed conflict with the United States, or any country allied with such enemy country, unless the settlement authority determines that the claimant is, and at the time of incident was, friendly to the United States.

NOTES: 1. For claims arising out of the scope, acts or omissions of ANG technicians employed under 32 U.S.C. 709 see § 842.131(a)(1). Claims caused by other ANG civilian employees are not covered under this manual. If such a claim is presented, investigate it and request the advice of HQ USAF/JACC. 2. Some States provide for payment of claims by insurance or under State law. 3. See § 842.131(a)(1); 5 U.S.C. 8116(c); 32 U.S.C. 715(b)(3). 4. If not payable as a P claim it may be payable under Subparts D, G, and I if damage was caused by Air Force personnel.

Subpart L—Hospital Recovery Claims (42 U.S.C. 2651-3)

§ 842.140 Scope of subpart.

This subpart tells how to recover from third parties user cost of hospital and medical care and treatment furnished by the Air Force.

[41 FR 50441, Nov. 16, 1976]

§ 842.141 Assertable claims.

A claim is assertable if:

(a) It is based on injury or disease that occurred after January 1, 1963 either under circumstances creating tort liability for the payment of damage upon a third person, or under circumstances wherein the United States is an eligible third-party beneficiary of a medical payment, uninsured motorist, no-fault, or workmen's compensation insurance policy.

(b) The Air Force furnishes, will furnish, or is responsible for medical care;

(c) And at least one of the following conditions exist:

(1) The total value of medical care furnished to all injured parties from a Federal source a non-Federal source or a combination of such sources, is $100 or more, or it is determined by the local staff judge advocate that the assertion of a claim is merited, regardless of the dollar amount.

(2) A third party, his insurer, or other representative offers payment and requests a release from the United States as a condition precedent to payment of other damages to the injured party.

(3) Liability is clear and investigation and collection efforts are minimal. When neither paragraphs (c)(1) nor (2) of this section exist, this condition applies at the discretion of the base staff judge advocate; for example, collection from compulsory insurance, medical payments, and so forth.

(4) An "HR" claim which does not fall within any of the above conditions (such as very questionable liability, small dollar amount) should nevertheless be asserted if a property damage

90-112 O—82——20

tort claim is asserted as provided in § 842.121, rule 9.

[32 FR 14824, Oct. 26, 1967, as amended at 41 FR 50441, Nov. 16, 1976; 44 FR 35221, June 19, 1979]

§ 842.142 Nonassertable claims.

A claim is not assertable if it is:

(a) For medical care furnished to a veteran, by the Veterans Administration, under 38 U.S.C. 601-643 for a service-connected disability. However, if the injured party is an Air Force member who is later discharged and transferred to a Veterans Administration facility, the claim may be asserted only for the reasonable value of medical care up to the date of his discharge.

(b) Against an employer of a seaman treated under 42 U.S.C. 249.

(c) For injury resulting from torts of contractors performing work for the Government when the United States is contractually obligated to defend the contractor for such claims arising in connection with performance of the contract. Before making demand on a contractor for hospital and medical expenses, the staff judge advocate should, in all instances, be certain that no such contractual obligation exists. Asserting a claim under such conditions would place the Air Force in an untenable position should the injured party elect to sue the contractor.

§ 842.143 Notification of injured party.

If third party liability is apparent or may be present, the base staff judge advocate promptly contacts the injured party or the party's guardian, personal representative, estate, dependents, or survivors, and advises in writing that:

(a) Under 42 U.S.C. 2651-3, the U.S. is entitled to recover from the third party responsible for the injuries or disease the reasonable value of medical care furnished or to be furnished by the U.S. Additionally, the U.S. may have an independent right to recover from any medical payments, uninsured motorist, workman's compensation, or "no fault" coverage that apply to the incident.

(b) The injured party, when desiring to do so, may seek the advice of legal counsel concerning any possible claim for personal injury or disease and furnish the base staff judge advocate the name and address of any civilian attorney retained.

(c) Under the provisions of 5 U.S.C. 3106, counsel fees cannot be paid from the claim of the U.S. Therefore, the terms of any fee arrangement should be clearly understood.

(d) The injured party should not execute a release or settle any claim for the injury or disease, nor furnish the third party or the insurance company or other representative of the third party any information or signed statement without first notifying the base staff judge advocate and his attorney.

(e) A complete written statement concerning the events leading to the injury or disease must be submitted.

[41 FR 50441, Nov. 16, 1976, as amended at 44 FR 35221, June 19, 1979]

§ 842.144 Waivers for undue hardship.

(a) Waivers for Undue Hardship. Waiver of the Government's claim, in whole or in part, is authorized if collection causes undue hardship to the injured party. No rule for determining what constitutes undue hardship fits every case. However, factors which should ordinarily be considered are: Permanent disability or disfigurement, decreased earning power, out-of-pocket losses, the financial status of the injured party, pension rights, and other Government benefits accruing to the injured party. Under no circumstances, however, should the Act, or any provision of this manual be interpreted to authorize waiver in order to permit the injured party himself to assert for his own benefit, a claim for the reasonable value of medical care. Under most circumstances a waiver is appropriate if there is an offer of settlement which includes all, or substantially all, of the assets of the third-party and where these assets are considerably less than the value of the injured party's damages as calculated through the use of the Personal Injury Valuation Handbooks. The distinction between waiver and compromise is blurred in cases where there is both questionable liability and limited assets. In such cases no firm rules can be made but it should be borne in

mind that the original purpose of the law was to prevent a windfall on the part of the third-party at the expense of the Government and it was not intended to diminish the rightful share of the settlement of the injured party.

(b) The settlement authority will consider a denial of a waiver in whole or in part according to § 842.8.

[41 FR 50441, Nov. 16, 1976]

§ 842.145 Compromise settlements.

(a) Compromise of the Government's claim is authorized if the injured party or his or her attorney requests, in writing, that the United States accept less than the full amount of its claim. Normally such a request is based upon the proposed acceptance by the injured party of less than the total assets available due to either questionable liability or litigation risks. The Government's claim should ordinarily be compromised for an amount which bears the same percentage relationship to the amount claimed as the settlement does to the jury verdict expectancy. For example, if the Government's claim is $3,000 and the jury verdict expectancy is $15,000 but the injured party elects to settle for a total of $10,000, the United States should compromise for ⅔ of its claim, or $2,000

(b) In situations where the Government's claim represents a substantial portion of the monetary assets available for settlement, an injured party's counsel is justifiably reluctant to cooperate in asserting the Government's claim. To encourage cooperation by injured parties, the Department of Justice has authorized United States representatives to agree in advance to compromise or to accept a percentage of any recovery realized by the injured party in settlement negotiation or suit. Requests for such action must be transmitted to the staff judge advocate having settlement authority for approval prior to any agreement between the base staff judge advocate and counsel for the injured party.

[41 FR 50442, Nov. 16, 1976, as amended at 44 FR 35221, June 19, 1979]

§ 842.146 Releasing records.

(a) Records of medical history, treatment and prognosis may be released to the injured party or his or her attorney upon request and to the United States Attorney if the United States has intervened in the injured party's suit or has filed a separate suit. In order to successfully collect a hospital recovery claim against a third party, the United States may release medical records to the third party or his agent in support of the claim of the United States as a routine use under 5 U.S.C. 552(a). A release of medical records to a third party upon request which is not in support of a claim of the United States is subject to the right of privacy provisions of 5 U.S.C. 552(b)(6) and requires the consent of the party whose records are requested.

(b) Requests for the release of medical records which cannot be honored by the staff judge advocate shall be referred to HQ USAF/JACC. The records, if available, and the claims file will accompany the request.

[41 FR 50442, Nov. 16, 1976]

§ 842.147 Settlement authority.

(a) The Secretary of the Air Force may accept the full amount of any hospital recovery claim, or he may compromise or waive any such claim not in excess of $40,000. The Secretary has delegated and limited this authority as shown in § 842.148.

(b) The authority granted in § 842.148 is not exercised in any case in which:

(1) The claim has been referred to the Department of Justice.

(2) The claim has been forwarded to but has not yet been returned by higher authority.

(3) A suit arising out of the incident that gave rise to the hospital recovery claim has been instituted against the U.S. or the injured party.

(4) A counterclaim growing out of the incident that gave rise to the medical care claim been presented.

[41 FR 50442, Nov. 16, 1976, as amended at 44 FR 35221, June 19, 1979]

§ 842.148 Settlement authorities for hospital recovery claims.

RULE	A If a claim is for	B then payment may be accepted in full and a release signed by	C it may be compromised, settled, or waived by
1	any amount	The Judge Advocate General. The Asst Judge Advocate General. Director of Civil Law, Chief, Deputy Chiefs, and Branch Chiefs, Claims and Tort Litigation Staff SJAs and their designees of PACAF, and USAFE, and GCMs with PACAF and USAFE. SJAs and their designees of bases, stations, and fixed installations	
2	$40,000 or less		The Judge Advocate General. The Asst Judge Advocate General. Director of Civil Law, OTJAG. Chief, Deputy Chief, and Branch Chiefs Claims and Tort Litigation Staff. See note 2
3	$15,000 or less		SJAs and their designees of PACAF and USAFE
4	$7,500 or less		SJAs and their designees of one-base GCMs and GCMs of PACAF and USAFE
5	$5,000 or less		SJAs and their designees of each base, station, or fixed installation.

NOTE: Claims over $40,000 that cannot be collected in full may be acted on only with the approval of the Department of Justice.

[44 FR 35221, June 19, 1979]

Subpart M—Nonappropriated Fund Claims

SOURCE: 41 FR 50442, Nov. 16, 1976, unless otherwise noted.

§ 842.150 Scope of subpart.

This subpart governs the administrative settlement and payment of claims against nonappropriated funds that arise from the acts or omissions of nonappropriated fund employees and certain other persons, claims otherwise caused by a nonappropriated fund, and the personnel claims of fund employees. It also provides for asserting certain tort claims in favor of the funds.

[32 FR 14824, Oct. 26, 1967]

§ 842.151 Processing tort and tort-type third-party claims.

All tort and tort-type claims arising out of the operation of a nonappropriated fund and presented by a third-party will be processed and settled in the manner authorized for similar claims against the U.S., subject to certain exceptions.

§ 842.152 Claims involving commercial insurance.

When the fund is protected by commercial insurance, all such claims will be referred to the commercial insurer for settlement. Under certain circumstances, foreign claims covered by insurance may be settled under this subpart. (Some foreign countries require Government vehicles, including nonappropriated fund vehicles, to be covered by liability insurance.)

§ 842.153 Claims cognizable under this subpart.

See § 842.157.

§ 842.154 Settlement authority.

(a) All settlement authorities are the authorities included in Subparts C through I of this part, as controlled by the facts (type of claim) and the law.

(b) When settling a claim under this chapter, always refer to Subparts C through I of this part, as appropriate, to determine whether the claim, if payable under this subpart, falls within the applicable statute of limitations; requires a finding of negligence, causation, or responsibility to be properly payable; and is presented by a person who is a proper claimant. All payments will be made from nonappropriated funds.

(1) Field approving authorities authorized to settle appropriated fund claims and to consider appeals will settle cognizable claims and act on appeals under this chapter in the manner and for the same amounts authorized:

(i) In Subparts C, D, G, H, and I of this part, as appropriate, for claims arising in the United States, its territories, commonwealth, and possessions.

(ii) In Subparts C through H of this part, as appropriate, for claims arising in foreign countries and other places outside the United States, its territories, commonwealth, and possessions.

(2) Within HQ USAF cognizable claims and appeals will be processed under this subpart as follows:

(i) The Judge Advocate General or his designee will settle:

(*a*) Subpart D, E, H of this part, and those I-type claims (accrued before 18 January 1967) and Subpart D-type appeals without regard to monetary limitations or other procedures prescribed.

(*b*) Subpart D, F, G of this part, and those I-type claims (accrued on or after 18 January 1967) in the manner and amounts authorized in those chapters.

(*c*) Without referral to the Secretary of the Air Force or the Congress for action, claims referred to him under this chapter.

(ii) The Chief or Assistant Chief, Claims Division, will settle:

(*a*) Subpart C, F, G of this part, and those I-type claims (accrued before 18

January 1967) in amounts not exceeding $25,000, $10,000 and $25,000, respectively. Claimants may appeal Subpart D-type claim decisions to the judge advocate general or the assistant judge advocate general.

§ 842.155 Claims by fund employees, customers, members, and participants.

(a) *Fund Employees.* (1) Tort and tort-type workmen's compensation claims submitted by fund employees are not cognizable under this chapter since they are covered by AFR 34-3, Vol. VIII chapter 5, and the remedies listed below are exclusive:

(i) Civilian Employees (Part or Full Time). All nonappropriated fund employees within the United States and those outside the CONUS who are U.S. citizens or are permanent residents of the United States are covered by the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901, et seq.; as extended by 5 U.S.C. 8171-8173; attachment 17).

(ii) Military Personnel working part time for the fund and paid by the fund are covered by military benefits, because any injury in the performance of such duties would be incident to their service.

(2) Personnel claims of employees for loss of or damage to their personal property incident to their employment will be processed and settled as authorized in Subpart F of this part. Exception: in transit damage or loss claims. Payment will be made from nonappropriated funds. No settlement agreement is required.

(b) *Fund customers, members, participants, or authorized users.* The claims of such persons will be considered and processed under § 842.151 as third-party claims, except:

(1) Customer complaints involving fund sales or service operations are normally not cognizable under this subpart. The exchange officer or manager of the activity is responsible for adjudicating and satisfying a customer's complaint in accordance with the procedures outlined in applicable regulations. However, if a complaint cannot be satisfactorily settled under those procedures, or includes a demand for other damages (such as personal injury or property damage to other than the article purchased or serviced), it is processed under § 842.151 as a third-party claim.

(2) Personal property claims of members or participants in morale, recreational, or welfare activities, jointly operated by appropriated and nonappropriated funds, are not cognizable under Subpart C of this part and, if compensable, must be processed under another appropriate subpart.

(3) Concessionaire generated claims are not cognizable under this subpart. Most concessionaries are required to maintain commercial insurance and in such instances paragraph § 842.152 should be complied with. Exchange concessionaire claims and complaints that are unresolved by the concessionaire or his insurer will be forwarded to the contracting officer, and/or to HQ Army and Air Force Exchange Service (AAFES/CSXCI), Dallas, Texas 75222.

§ 842.156 Claims in favor of nonappropriated funds.

(a) *Tort claims.* The procedures set forth in Subpart H or J of this part, as appropriate, will be used unless other procedures are prescribed by the fund.

§ 842.157 Claims cognizable and not cognizable under this subpart.

If a claim—	And is caused by—	Then it is
(A)	(B)	(C)
1 Arises out of the operation of a nonappropriated fund.	Paid civilian employees of the fund while acting within the scope of their employment.	Cognizable.
2	Military personnel or appropriated fund employees while performing part-time duties for the fund for which they are paid from the fund (rule 6B).	
3	Negligent operation or condition of fund premises for which the fund is responsible (rule 6B).	

If a claim—	And is caused by—	Then it is
(A)	(B)	(C)
4	Members, participants, or authorized users of fund property (note)	
5	Military or appropriated fund civilian employees performing assigned Air Force duties, even though they involve nonappropriated funds.	Not cognizable.
6	Negligent construction or maintenance of a facility for which the Air Force is responsible (see rule 3B above).	
7	Other such circumstances as those in rules 5 and 6	

NOTE: This procedure agrees with DOD policy that no claim previously covered by commercial comprehensive liability insurance be excluded. In practice, this means that claims generated by authorized users and lessors of nonappropriated fund equipment, such as airplanes, boats, vehicles, campers, etc., are cognizable provided such use is in accord with the rules of the fund activity involved. However, a claim arising from the act or omission of a revenue producing or billeting fund customer would not normally be cognizable.

Subpart N—Civil Air Patrol (CAP) Claims (5 U.S.C. 8141(c); 10 U.S.C. 2733, 2734, 9441, and 9801–9806; 28 U.S.C. 2671–2680; 31 U.S.C. 71, 951–953; and 36 U.S.C. 201–208)

§ 842.160 Scope of subpart.

This subpart explains how to process certain administrative claims for and against the United States that arise out of CAP activities during specifically assigned operational missions under the direction of the Air Force, or from damage to U.S. Government property by the CAP or a third party.

§ 842.161 Relation of the CAP to the Air Force.

The law that established the CAP, a nonprofit civilian corporation, as a volunteer civilian auxiliary of the Air Force authorized the Air Force to give it certain limited assistance and to use CAP services to fulfill the Air Force noncombat mission (10 U.S.C. 9441, and 36 U.S.C. 201–208). Since CAP senior and cadet members are members of a corporation, they are not military and civilian employees within the meaning of Subpart C. Nothing in this subpart confers military or veteran status on any person.

[32 FR 14824, Oct. 26, 1967, as amended at 41 FR 50443, Nov. 16, 1976]

§ 842.162 Third party claims.

(a) *Cognizable claims.* See § 842.165.

(b) *Processing tort-type claims.* The Air Force investigates, settles, and pays third-party claims for personal injury, death, or property damage cognizable under this subpart the same as any other claim arising out of Air Force activities.

[41 FR 50443, Nov. 16, 1976]

§ 842.163 Compensation claims.

(a) *Coverage.* Compensation benefit claims by volunteer civilian CAP members (except CAP cadets), or their survivors, for personal injury or death and medical and burial expenses relating to such injury or death are limited; Federal law applies only in special situations

(1) Compensation claims are cognizable under the Federal Employees' Compensation Act and regulations of the Bureau of Employees' Compensation, U.S. Department of Labor. They include claims that arise incident to active service, or travel to or from active service, when the service was:

(i) Authorized in writing by a competent authority for a specific assignment within a prescribed time limit; and

(ii) For the specific performance or direct support of an operational CAP mission under Air Force authorization.

(2) CAP cadets are specifically excluded from coverage under this law, but may be provided limited service while at encampments, including emergency hospital and medical care (see AFR 46-3 (Civil Air Patrol Cadet Program)).

(b) *Presentation of claim and reports.* The claimant (member or survivor) and the local commander of the CAP unit (immediate superior) will initiate and submit claims and obtain supporting documents required by the Department of Labor. To avoid reporting delays, Air Force civilian personnel officers, on request, will provide employee, supervisor, and medical "CA" forms and help the claimant and the CAP unit commander carry out their

responsibilities (see AFM 40-1 (Air Force Civilian Personnel Manual)). However, reports, claims, and forms should be submitted to the appropriate office of the Bureau of Employees' Compensation through the local commander of the CAP unit concerned.

[32 FR 14824, Oct. 26, 1967, as amended at 41 FR 50443, Nov. 16, 1976]

§ 842.164 Government claims.

Claims for damage to or loss of Government property on loan (not donated) to the CAP normally are processed under report of survey procedures. However, tort claims for damage or loss caused by a negligent act or omission of a third party, including the negligent operation of privately owned vehicles by CAP senior members or cadets, are cognizable under Subpart J.

[32 FR 14824, Oct. 26, 1967, as amended at 41 FR 50443, Nov. 16, 1976]

§ 842.165 Cognizable third-party claims.

Rule	If claim is— (A)	And— (B)	Then it is— (C)
1	For personal injury, death, or property damage.	It arises from an accident or incident and was proximately caused by the CAP acting under Air Force direction on a specially assigned mission.	Cognizable (notes 1 and 4).
2	For reimbursement.....	Is for use or depreciation of privately owned property used by the CAP, its senior members, or cadets on any mission specifically assigned by the Air Force.	Not cognizable or payable.
3	An indemnity claim	Is for damage to or loss of privately owned property used on any mission specifically assigned by the Air Force that resulted from acts or omissions of the owner or operator.	
4	For personal services or expenses.	They were incurred by the CAP, its senior members, or cadets while engaged in any mission specifically assigned by the Air Force.	Not cognizable or payable (note 2).
5	For damage or injury.....	It arises out of CAP accident or incident that occurs when CAP is not under Air Force direction.	Not cognizable or payable (notes 3 and 4).
6	.....	It arises out of CAP accident or incident occurring outside time limits prescribed for an Air Force specifically assigned mission.	
7	Based solely on Government ownership of property on loan to CAP.	It arises out of a CAP accident or incident	

NOTES: 1. Using the services of the CAP by the Air Force on specifically assigned missions does not constitute the bailment or loan of CAP or a member's property to the Air Force. For other claims by the CAP or its members, see 5 U.S.C. 8116(c), 8141; 10 U.S.C. 9441; 2. See AFR 46-5 and 10 U.S.C. 9441 for CAP-reimbursable expenses. 3. See *Pearl* v. *United States*, 230 F. 2d 243 (10th Cir. 1956); 5 U.S.C. 8150(b). 4. The CAP carries public liability insurance. If the claim accrued while the Air Force was not using the services of the CAP, or if the injury, death, or damage occurred during a material deviation from the Air Force directed mission, that is, unauthorized passengers such as cadets, news media, etc., the claim will be referred to HQ USAF/JACC for referral to the insurer through HQ CAP-USAF/JA.

[41 FR 50444, Nov. 16, 1976]

Subpart O—Other Claims

SOURCE: 41 FR 50444, Nov. 16, 1976, unless otherwise noted.

§ 842.170 Scope.

This subpart pertains to claims that usually are neither assertable nor payable under claims statutes and other subparts of this part. It includes instructions for accepting, investigating, and disposing of some that contain elements of equitable or legal liability.

§ 842.171 General policy on accepting and handling claims by Staff Judge Advocates.

(a) They must not refuse to receive any claim for damage. However, claimants may be directed to the proper staff section or agency for resolution

of claims matters not covered by this Part.

(b) They must accept, investigate, and refer through claims channels to HQ USAF/JACC any claim presented that is not cognizable and payable under claims statutes or other subparts of this part and does not fall under any specific contract, finance, supply, or other settlement procedure nor relate to the regular acquisition or disposition of real estate.

§ 842.172 Claims for reimbursement under industrial security regulations.

DOD Directive 5220.6, December 7, 1966, prescribes the method of processing all claims for reimbursement arising from the Industrial Personnel Security Clearance Program. Claims for reimbursement in DOD cases (Air Force, etc.) should be initiated by a petition filed by the applicant with the Assistant Secretary of Defense (Administration). Claims of contractor employees approved by DOD are paid by the Department of the Army from "Claims, Defense" Appropriation.

§ 842.173 Air Force Reserve claims.

Claims personnel will process and settle:

(a) Any claim by a member of the Air Force Reserve for damage or loss of personal property incident to his inactive duty training under Subpart C of this part. Similar claims for the injury or death of a member are barred under claims statutes.

(b) Claims of third parties that are caused by members of the Air Force Reserve while engaged in inactive duty training as any other claim against the Air Force.

§ 842.174 AFROTC claims.

Any claim that arises from the activities of a student member (cadet) of the AFROTC is the responsibility of the educational institution in which he is enrolled, unless:

(a) He is engaged in Air Force flight instruction, indoctrination, orientation, or training camp duties. The Federal Employees' Compensation Act has been extended to apply to disability or death claims of AFROTC members engaged in flight instruction under Federal law, performing authorized travel to or from, or attending a training camp under Federal law. Claims personnel will not investigate or forward to HQ USAF/JACC any Bureau of Employees' Compensation claim for injury or death of an AFROTC cadet arising from such activities. Instead, advise the claimant that his claim for compensation benefits should be processed under AFM 45-3. In doubtful cases, if no line-of-duty investigation was made, contact AU/JA, Maxwell AFB AL 36112, for advice.

(b) His property is damaged or he is injured by Air Force personnel performing official duty. Claims against the Air Force may arise when the Air Force transports AFROTC members to bases for physical examinations, orientation, and other military purposes. If a student member is injured while being transported by a military department, claims personnel will process his claim under Subpart D or I of this part.

§ 842.175 United States Postal Service claims.

(a) The U.S. Postal Service (USPS) is entitled to reimbursement by the Air Force for losses of postal funds or accountable postal stock through negligence, errors, or defalcations on the part of unbonded Air Force postal clerks, assistant Air Force postal clerks, and Air Force Postal Finance Officers. Claims for reimbursement are made by the USPS through USAF Postal and Courier Service channels to HQ USAF/JACC and are not investigated or processed through any claims channels in the field. The chief and Assistant Chief, Claims Division, are authorized to settle these claims and to effect recovery from the offender or offenders in the manner provided in Subpart J of this part.

(b) This category of claim does not relate to third party mail loss or damage claims caused by other Air Force personnel, or members of the NAG, such as unit mail clerks, crew chiefs, truck driver, etc.

§ 842.176 Laundry and drycleaning claims.

(a) Claims involving Air Force Industrial Fund laundry and drycleaning es-

tablishments are processed and settled under AFR 148–1.

(b) When an Air Force facility of this type is not operated under the Industrial Fund, the claim is considered under AFM 67–1 if the property is owned by the Government; or Subpart C of this part if the property is owned by a person.

(c) If the facility is contractor-operated, claims personnel will refer the claim to the contractor unless his contract provides that claims will be settled in a manner similar to Air Force claims and paid from funds due him.

(d) Clothing damage or loss claims of Air Force personnel arising out of an Army Quartermaster laundry or dry-cleaning plant will be processed under Subpart C of this part, except for military clothing furnished to enlisted personnel under the monetary clothing allowance system, which will be processed under AFM 67–1, volume I, part 3, chapter 2, section G, paragraph 75.

§ 842.177 Real estate claims.

(a) Claims for rent, damage, and other payments that arise from the regular acquisition and disposition of, or an interest in, real property by and for the Air Force are processed under Air Force regulations in the 87 series and 10 U.S.C. 2662, 2663, and 2672. See also AR 405–15.

(b) Aviation easement and other "taking" claims resulting solely from aircraft overflight or noise are assertable only by suit against the United States; they may not be settled under this part. Claims personnel will investigate and retain in a litigation report file any claim or complaint of this type received, but advise the claimant that no statute is available under which the Air Force can administratively pay the claim.

(c) Other claims involving a "taking," within the meaning of the Fifth Amendment of the United States Constitution, may not be settled under this part. A "taking" by flooding or other direct and permanent invasion of claimant's property or the imposition of a servitude upon his land gives rise to an implied contract to pay for the acquisition of an interest in the land and should be accomplished by or through the Air Force engineers as the staff agency responsible for acquiring interests in land for the Air Force. The engineering investigation should determine and recommend whether the trespass may be corrected by construction, acquisition of an additional easement, referral to GAO, or by litigation. If the injury to the land is temporary in nature and does not subject the land for a more or less definite time to a use inconsistent with the rights of the owner, there can be no "taking". Such a "temporary" injury is considered as a consequential damage or tort and may be, if otherwise cognizable in times and amounts, capable of settlement under Subpart I (28 U.S.C. 2671–2680) or, if the activity is a noncombat one, under Subparts D (10 U.S.C. 2733), E (10 U.S.C. 2734), G (10 U.S.C. 2737), K (32 U.S.C. 715), or M.

§ 842.178 Government department claims.

(a) Tort or tort-type claims for damage to the property of one U.S. department or agency are not asserted against another U.S. department or agency, regardless of whether an agency is fully supported by revenue-producing activities, or in a Government corporation or a nonappropriated fund.

(b) This interdepartmental waiver is predicated on the doctrine that property belonging to the Government is not owned by any department of the Government. The Government does not reimburse itself for the loss of its own property, with the following exceptions:

(1) *USPS claims.*

(2) *GSA vehicle damage claims.* The Comptroller General authorizes reimbursement when it is specifically provided for by law. Thus, the Air Force reimburses the GSA for damage to GSA motor pool vehicles caused by misconduct of an Air Force vehicle operator or employee. The using agency determines the existence or negligence or misconduct under its administrative regulations. The unit to which the Air Force member responsible for the damage is assigned processes the GSA claim. When determined to be pay-

able, the claim is paid from O&M rather than claims funds.

§ 842.179 Combat or war damage claims.

Most claims statutes explicitly exclude claims arising out of war or armed conflict. However, general or special relief legislation may be proposed to reimburse U.S. citizens or foreign nationals who have suffered unusual losses because a war or armed conflict was fought on or near their property. When foreign nationals are involved, their claims usually are processed through Department of State channels. However, claims personnel will report to JACC any inquiry received from a foreign government representative about such claims.

§ 842.180 Military rescue and assistance claims.

(a) *Fire department claims.* When a fire results from an Air Force aircraft, rocket, or missile crash, city and town fire departments are often asked to help with rescue operations and to extinguish the fire to prevent further injury, death, or destruction for which the Government would be responsible. A fire department may present a claim for such services. The GAO has held that if the claimant had no legal obligation to furnish the protection and service requested and its established policy at the time was to assess charges for services renderd outside its own limits, the claim is payable from O&M funds.

(b) *Ambulance claims.* A bill presented for ambulance services rendered by a commercial ambulance operator called to the scene of an Air Force crash is not cognizable under any statute available for the payment of tort claims. However, payment for such service in an appropriate situation may be authorized under Air Force regulations in the 160 series. If an unpaid claim of this type appears meritorious, refer it to JACC for action.

(c) *Sea rescue expense claims.* Commercial vessels may present claims for expenses incurred when they are diverted from their course to pick up persons or property from ditched Air Force aircraft.

(1) When the facts reveal that the vessel answered a distress call or was requested to pick up U.S. survivors or jettisoned property, claims personnel will forward the claim to JACC for action.

(2) Claims for salvage services rendered to Air Force vessels are cognizable under Subpart H of this part.

(d) *Land rescue expense claims.* (1) The Air Force is responsible for conducting aircraft search and rescue operations in the United States, and is authorized to use CAP services for such operations.

(2) Claims by local civil defense and other authorities who incur the expenses of meals and gasoline in connection with aircraft search and rescue activities are not cognizable under any statute available to the Air Force. However, if Air Force authorities requested the service, or the claim otherwise is meritorious, claims personnel will refer it to JACC for action.

(e) *Air crew assistance.* (1) Claims for expenses incurred in assisting Air Force personnel who land in enemy or hostile territory are submitted through attache or intelligence channels. Claims personnel will refer such claims to JACC for consideration and possible payment out of special funds.

(2) Payment of escape and evasion claims usually is predicated on the expense actually incurred by the claimant, not on the risk he took to help U.S. airmen.

(f) *Civilian medical claims.* In emergencies such as aircraft or vehicle accidents, civilian medical attention is often furnished to Air Force personnel. Procedures for obtaining payment for such services are in Air Force regulations in the 160 series.

(g) *Rewards for recovery of Lost Air Force Property.* See AFR 67-5.

(h) *Mortuary remains recovery expense.* See AFM 143-1.

(i) *Claims for wages of civilian guards at scene of Air Force accident.* See AFR 127-4.

§ 842.181 Solatia or gratuity payments.

(a) In some foreign countries it is the custom for a person involved in an accident or incident to make an immediate expression of sympathy to the

victim or to his family by the payment of solatium. U.S. personnel are expected to comply with this humanitarian local custom. The military department or DOD agency involved in the accident or incident is responsible for making the solatium payment, which is not affected by the assignment of single service claims responsibility to another department. The amount of the payment is not as important as the promptness of which this customary expression of sincere sympathy or compassion for the feelings of the victim or his family is made. In aircraft crashes and other accidents or incidents, the investigating officer, usually the claims officer, conducting the investigation on behalf of the responsible person and his commander, makes the presentation personally. The payment, generally nominal in amount, varies according to the feelings, sympathy and ability of the person involved in the accident or incident but should substantially conform with the local custom in similar cases. It is paid with O&M funds without regard to legal liability or a settlement agreement. The matter of how and when solatium will be paid is within the jurisdiction of the commander concerned. In the absence of local command regulations or instructions the staff judge advocate of the Air Force command exercising geographic claims responsibility will be consulted before any payment is made.

(b) Solatium payments are not a substitute for an emergency or advance payment or a monetary award of damages on a claim presented under the Foreign Claims Act, other statutes, or an international agreement. However, if a related claim for damage, injury or death is paid under a claims statute, the amount paid as solatium, if deemed appropriate by the approving authority, may be taken into consideration in determining the amount of the award.

PART 843—STATUTORY REIMBURSEMENT FOR LAND

Subpart A—Reimbursement to Owners and Tenants of Land Acquired by the Department of the Air Force Pursuant to Public Law 534, 82d Congress

Sec.
843.1 Statutory provisions.
843.2 Definitions.
843.3 Scope.
843.4 Delegation.
843.5 Filing of application.
843.6 Limitation of amount of payment.
843.7 Conditions of reimbursement.
843.8 Payment.

Subpart B—Reimbursement to Owners and Tenants of Land Acquired by the Air Force Pursuant to Public Law 155, 82d Congress

843.50 Statutory provisions.
843.51 Definitions.
843.52 Scope.
843.53 Delegation.
843.54 Filing of application.
843.55 Limitation of amount of payment.
843.56 Conditions of reimbursement.
843.57 Payment.

Subpart A—Reimbursement to Owners and Tenants of Land Acquired by the Department of the Air Force Pursuant to Public Law 534, 82d Congress

AUTHORITY: Sec. 401, 66 Stat. 624, as amended.

SOURCE: 29 FR 13892, Oct. 6, 1964, unless otherwise noted.

§ 843.1 Statutory provisions.

The Secretary of the Air Force is authorized, to the extent he determines to be fair and reasonable, under regulations approved by the Secretary of Defense, to reimburse the owners and tenants of land to be acquired for any public works project of the Department of the Air Force for expenses and other losses and damages incurred by such owners and tenants, respectively, in the process and as a direct result of the moving of themselves and their families and possessions because of such acquisition of land, which reimbursement shall be in addition to, but not in duplication of, any payments in respect of such acquisition as

may otherwise be authorized by law: *Provided*, That the total of such reimbursement to the owners and tenants of any parcel of land shall in no event exceed 25 per centum of the fair value of such parcel of land as determined by the Secretary of the Air Force. No payment in reimbursement shall be made unless application therefor, supported by an itemized statement of the expenses, losses, and damages so incurred, shall have been submitted to the Secretary of the Air Force within one year following the date of such acquisition or within one year following the date that the property is vacated by the applicant, whichever date is later. The authority for reimbursement of owners and tenants for moving costs conferred by this subsection shall be in addition to but not in duplication of authority contained in subsection 501(b) of the act of September 28, 1951 (65 Stat. 365) for the reimbursement to owners and tenants of land acquired pursuant to authorization in said act.

NOTE: Regulations implementing subsection 501(b) of the act of September 28, 1951 (65 Stat. 365) are contained in Subpart B of this part. "*Provided, further*, That with respect to land acquired subsequent to July 27, 1954 but prior to July 15, 1955, reimbursement shall be restricted to those owners and tenants who used such land for residential or agricultural purposes."

§ 843.2 Definitions.

(a) *The act.* Pub. L. 534, 82d Congress, approved July 14, 1952.

(b) *Owner.* Any owner of land who moves himself, his family, or his possessions because of acquisition of his land for any public works project of the Department of the Air Force.

(c) *Tenant.* One who under proper authority uses or occupies land and who moves himself, his family, or his possessions because of acquisition of such land for any public works project of the Department of the Air Force.

(d) *Land to be acquired for any public works project.* Acquisition by the Department of the Air Force of any interest in land required for military purposes, except industrial installations not within the boundaries of an authorized multiple ownership project being acquired under circumstances similar to those involved in the normal acquisition of property for an airfield, camp or reservoir.

(e) *Industrial installations.* Any unit of real property which when acquired by the United States is being used or is useful for the production of materiel, munitions and supplies or for industrial research and development.

(f) *Date of acquisition.* The date on which title to land being acquired vests in the United States or the date on which the temporary term commences if a possessory interest only is being acquired.

(g) *Date of vacating.* The date on which an owner or tenant moves himself, his family, and his possessions subsequent to January 1, 1958, from land acquired on or subsequent to July 14, 1952.

(h) *Fair value.* The value of the land as determined in accordance with Department of the Air Force appraisal procedure.

§ 843.3 Scope.

Pursuant to the provisions of the act, reimbursement may only be made to the extent determined fair and reasonable for items of expense and other losses and damages incurred by owners or tenants in the process and as a direct result of the moving of themselves and their families and possessions. The types of reimbursable items and non-reimbursable items described in paragraphs (a) and (b) of this section are not intended to be exclusive.

(a) *Types of reimbursable items.* (1) Moving expenses, such as costs of transportation, insurance, crating and uncrating.

(2) Temporary storage expenses.

(3) Expenditures for obtaining new site or land such as cost of appraisals, surveys, and title searches, where such expenses are normally borne by the purchaser. This does not include any part of the purchase price for the new site or any expenditures for the purpose of adding to the value or utility of the new site.

(b) *Types of non-reimbursable items.* (1) Costs of conveying property to the Government.

(2) Consequential damages or losses, such as loss of good will, loss of profits, loss of trained employees, or ex-

penses of sales and losses because of such sales.

§ 843.4 Delegation.

Authority is delegated to the Chief of Engineers, Department of the Army, and such officers and employees of the Corps of Engineers as he may designate and are approved by the Secretary of the Air Force, to perform all functions and make all determinations which are authorized to be performed by the Secretary of the Air Force with respect to reimbursement under the provisions of section 401(b) of the act.

§ 843.5 Filing of application.

All applications for reimbursement must be delivered to or mailed to the appropriate Division or District Engineer, Corps of Engineers, Department of the Army within one year from the date of acquisition or within one year from the date that the property is vacated by the applicant, whichever date is later. Applications must be supported by an itemized statement of the expenses, losses, and damages incurred for which reimbursement is requested.

§ 843.6 Limitation of amount of payment.

The act provides that the total amount of reimbursement to all owners and tenants of any parcel of land shall not exceed 25 per centum of the fair value of such parcel of land. In the event that the approved amount of reimbursement for all owners and tenants exceeds 25 per centum of the fair value of the land, each applicant will receive the same proportion of the 25 per centum of the fair value as the approved amount for each application is of the total amount approved for all applications.

§ 843.7 Conditions of reimbursement.

In determining whether reimbursement will be made and the extent and amount thereof, consideration will be given to the following:

(a) Reimbursement shall not be made unless and until reasonable proof of the expenses or other losses and damages incurred, in the form of receipts therefor or the next best evidence thereof when receipts are not available, have been submitted.

(b) Reimbursement shall not be made to the extent the applicant's negligence, or wrongful act has contributed to the amount of the expenses, losses or damages.

(c) Reimbursement shall not be made for any expenses, losses or damages which were allowed in establishing the compensation paid or to be paid for the interest acquired in the land.

§ 843.8 Payment.

Appropriate action will be taken to accomplish payment in accordance with prescribed procedure and regulations. Reimbursement will be made from funds appropriated to the Department of the Air Force pursuant to any act authorizing military public works projects for the Department of the Air Force, to the extent available.

Subpart B—Reimbursement to Owners and Tenants of Land Acquired by the Air Force Pursuant to Public Law 155, 82d Congress

AUTHORITY: Sec. 501, 65 Stat. 365, as amended.

SOURCE: 29 FR 13693, Oct. 6, 1964, unless otherwise noted.

§ 843.50 Statutory provisions.

The Secretary of the Air Force is authorized, to the extent he determines to be fair and reasonable, to reimburse owners and tenants of land acquired by the Air Force pursuant to the provisions of Pub. L. 155, 82d Congress, for expenses and other losses and damages incurred by such owners and tenants, respectively, in the process and as a direct result of the moving of themselves and their families and possessions because of such acquisition of land, which reimbursement shall be in addition to, but not in duplication of, any payments in respect of such acquisition as may otherwise be authorized by law: *Provided*, That the total of such reimbursement to the owners and tenants of any parcel of land shall in no event exceed 25 per centum of the fair value of such parcel of land as determined by the Secretary of the Air Force. No payment or reimbursement shall be made unless application there-

for, supported by an itemized statement of the expenses, losses and damages so incurred shall have been submitted to the Secretary of the Air Force within one year following the date of such vacating (sec. 501(b), Pub. L. 155, 82d Cong.): *Provided, further,* That with respect to land acquired subsequent to July 27, 1954, but prior to July 15, 1955, reimbursement shall be restricted to those owners and tenants who used such land for residential or agricultural purposes.

§ 843.51 Definitions.

(a) *The act.* Public Law 155, 82d Congress, approved September 28, 1951.

(b) *Owner.* Any owner of land, who moves himself, his family, or his possessions because of acquisition of his land pursuant to the act.

(c) *Tenant.* One who under proper authority uses or occupies land and who moves himself, his family, or his possessions because of acquisition of such land pursuant to the act.

(d) *Acquisition pursuant to the act.* Acquisition by the Air Force of any interest in land for any project authorized by the act.

(e) *Date of vacating.* The date the owner or tenant moves himself, his family and his possessions.

(f) *Fair value.* The value of the land as determined in accordance with Air Force appraisal procedure.

§ 843.52 Scope.

Pursuant to the provisions of the act, reimbursement may only be made to the extent determined fair and reasonable for items of expenses and other losses and damages incurred by owners or tenants in the process and as a direct result of the moving of themselves and their families and possessions. The types of reimbursable items and non-reimbursable items described in paragraphs (a) and (b) of this section are not intended to be exclusive.

(a) *Types of reimbursable items.* (1) Moving expenses, such as costs of transportation, insurance, crating and uncrating.

(2) Temporary storage expenses.

(3) Expenditures for obtaining new site or land such as cost of appraisals, surveys, and title searches, where such expenses are normally borne by the purchaser. This does not include any part of the purchase price for the new site or any expenditures for the purpose of adding to the value or utility of the new site.

(b) *Types of non-reimbursable items.* (1) Costs of conveying property to the Government.

(2) Consequential damages or losses, such as loss of good will, loss of profits, loss of trained employees or expenses of sales and losses because of such sales.

§ 843.53 Delegation.

Authority is delegated to the Chief of Engineers, Department of the Army, and such officers and employees of the Corps of Engineers as he may designate and are approved by the Secretary of the Air Force, to perform all functions and make all determinations which are authorized to be performed by the Secretary of the Air Force with respect to reimbursement under the provisions of section 501(b) of the act.

§ 843.54 Filing of application.

All applications for reimbursement will be filed with the appropriate Division or District Engineer, Corps of Engineers, Department of the Army, for forwarding to the Chief of Engineers for final action. Such applications must be delivered to or mailed to such Division or District Engineer within one year from the date of vacating and must be supported by an itemized statement of the expenses, and the losses and damages incurred and for which reimbursement is requested.

§ 843.55 Limitation of amount of payment.

The act provides that the total amount of reimbursement to all owners and tenants of any parcel of land shall not exceed 25 per centum of the fair value of such parcel of land. In the event that the approved amount of reimbursement for all owners and tenants exceeds 25 per centum of the fair value of the land, each applicant will receive the same proportion of the 25 per centum of the fair value as the approved amount for

each application is of the total amount approved for all applications.

§ 843.56 Conditions of reimbursement.

In determining whether reimbursement will be made and the extent and amount thereof, consideration will be given to the following:

(a) Reimbursement shall not be made unless and until reasonable proof of the expenses or other losses and damages incurred, in the form of receipts therefor or the next best evidence thereof when receipts are not available, have been submitted.

(b) Reimbursement shall not be made to the extent the applicant's negligence, or wrongful act has contributed to the amount of the expenses, losses or damages.

(c) Reimbursement shall not be made for any expenses, losses or damages which were allowed in establishing the compensation paid or to be paid for the interest acquired in the land.

§ 843.57 Payment.

Appropriate action will be taken to accomplish payment in accordance with prescribed procedure and regulations. Reimbursement will be made from funds appropriated to the Department of the Air Force pursuant to the act, to the extent available.

PART 844—DISTRIBUTION OF LITERATURE AND PROTEST AND DISSIDENT ACTIVITIES

Sec.

844.1 Purpose.
844.2 Application.
844.3 Responsibilities.
844.4 Terms explained.
844.5 General.
844.6 Policies.
844.7 Procedures.
844.8 Violations.

AUTHORITY: Sec. 8012, 70A, Stat. 488; 10 U.S.C. 8012, unless otherwise noted.

SOURCE: 41 FR 47427, Oct. 29, 1976, unless otherwise noted.

§ 844.1 Purpose.

This part states policy, prohibitions, and guidelines for handling requests from military and non-military personnel to distribute literature and engage in protest activities on the United States Air Force Academy.

§ 844.2 Application.

This part applies to all dissident and protest activities including but not limited to: Picketing, demonstrations, sit-ins, speeches, and like activities, conducted by military personnel or civilians on the USAF Academy. It also applies to all distributions, by military personnel or civilians, of unofficial printed or written material on the USAF Academy. These materials include but are not limited to pamphlets, magazines, handbills, flyers, and petitions for signatures. This part does not apply to distributions of printed or written matter by the U.S. Postal Service, distribution of area daily newspapers in family housing areas and dormitories, and other distributions of literature covered by Part 818a of this chapter.

§ 844.3 Responsibilities.

The immediate government of the USAF Academy is under the Superintendent who is also the Commanding Officer of the USAF Academy and the military post.

(10 U.S.C. 9334)

§ 844.4 Terms explained.

(a) *Public areas.* Areas of the USAF Academy determined by competent authority to be open to the public. The recognized public areas are: Falcon Stadium and its environs immediately before, during and after Air Force home football games, and the USAF Academy Cadet Chapel and its environs when the Chapel is open to the public.

(b) *Nonpublic areas.* All areas of the USAF Academy not recognized as public areas are nonpublic areas. These areas include but are not limited to: The Community Center, family housing areas, cadet area, service and supply areas, athletic areas, and administrative areas.

(c) *Protest and dissident activities.* Such activities include but are not necessarily limited to: Picketing, demonstrations, sit-ins, protest marches, political speeches, and similar activities.

§ 844.5 General.

The right of the individual to freedom of expression should be preserved to the maximum extent consistent with existing laws and the policies set forth herein. However, expression or conduct which either could interfere with or present a danger to: The orderly accomplishment of the military mission; the loyalty, morale, and discipline of this command; Federal and private property located on the installation; or to military personnel or other individuals lawfully on the installation, is prohibited.

§ 844.6 Policies

(a) Air Force members will adhere strictly to the provisions of AFR 35-15 and will not distribute any unofficial printed or written matter at any location on the USAF Academy or engage in other dissident or protest activities without first obtaining permission as specified in § 844.7.

(b) Civilian individuals or groups will not distribute any unofficial printed or written matter or engage in other dissident or protest activities in nonpublic areas of the USAF Academy without first obtaining permission as specified in § 844.7.

(c) The USAF Academy does not prohibit civilians from distributing unofficial printed and written matter or engaging in other activities in public areas of the USAF Academy provided such action does not interfere with the order and tranquility of the installation. Persons who wish to engage in such activities in public areas are strongly encouraged to advise the Office of Information (OI) and the Director of Security Police (SP) of their intentions in order that appropriate steps may be taken to safeguard the freedom of expression and rights of privacy of all.

§ 844.7 Procedures.

(a) Military personnel desiring to distribute unofficial printed or written matter or engage in other activities covered by this part at any location on the USAF Academy, and civilians desiring to distribute such materials or engage in other such activities in nonpublic areas of the USAF Academy, must obtain the permission of the Superintendent, USAF Academy, prior to engaging in any such distributions or activities. The request for permission will be submitted in writing, addressed to SUPT, THRU OI, and will include the following as applicable:

(1) Two copies of the printed or written matter to be distributed.

(2) Number of persons who are going to engage in the activity.

(3) Names and addresses of the individuals/groups who are going to engage in the activities.

(4) Number of pieces of printed or written matter to be distributed.

(5) Time and place of the planned activity.

(b) In order that full and fair consideration may be given to all such requests, they should be submitted not less than seven days prior to the date of the planned distributions or activities.

(c) Printed or written matter, the contents of which violate either the letter or intent of § 844.5, will not be approved for distribution.

(d) Dissident and protest activities which violate the letter or intent of § 844.5 will not be permitted.

§ 844.8 Violations.

(a) Violations of the provisions of this part by military personnel may subject them to prosecution under the UCMJ.

(b) Nonmilitary personnel who violate the provisions of this part may be barred from the USAF Academy and subject to prosecution in state or Federal courts.

PART 845—COUNSEL FEES AND OTHER EXPENSES IN FOREIGN TRIBUNALS

Sec.

845.1 Purpose.
845.2 Statutory authority.
845.3 Responsibility.
845.4 Criteria for the provision of counsel and payment of expenses in criminal cases.
845.5 Provision of bail in criminal cases.
845.6 Criteria for the provision of counsel and payment of expenses in civil cases.
845.7 Procedures for hiring counsel and obligating funds.
845.8 Payment of counsel fees and other expenses.

90-112 O—82——21

Sec.
845.9 Appropriated funds chargeable.
845.10 Reimbursement.
845.11 Correspondence.

AUTHORITY: Sec. 8012, 70A Stat. 488, sec. 1037, 72 Stat. 1445; 10 U.S.C. 8012, 1037.

SOURCE: 44 FR 75633, Dec. 21, 1979, unless otherwise noted.

NOTE: This part is derived from chapter 2 of Air Force Regulation 110-12, December 1, 1978.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 845.1 Purpose.

This part establishes criteria and assigns responsibility for the provision of counsel, for the provision of bail, and for the payment of court costs and other necessary and reasonable expenses incident to representation in civil and criminal proceedings, including appellate proceedings, before foreign courts and foreign administrative agencies, which involve members of the Armed Forces, civilian personnel and dependents. Payment of fines is not authorized hereunder.

§ 845.2 Statutory authority.

10 U.S.C. 1037 provides authority for employment of counsel, and payment of counsel fees, court costs, bail, and other expenses incident to representation of persons subject to the Uniform Code of Military Justice before foreign tribunals. For personnel not subject to the Uniform Code of Military Justice, funds for similar expenses may be made available in cases of exceptional interest to the service concerned, upon prior application through the Judge Advocate General of the service concerned, to the appropriate service secretary.

§ 845.3 Responsibility.

(a) Requests for provision of counsel, provision of bail, or payment of expenses will ordinarily be made by the defendant or accused through appropriate channels to the officer exercising general court-martial jurisdiction over him. This officer shall determine whether the request meets the criteria prescribed herein and, based upon such determination, shall take final action approving or disapproving the request. Within their geographical areas of responsibility, major commands in the interest of obtaining prompt and effective legal service may appoint as approval authority, instead of the officer exercising general court-martial jurisdiction, any subordinate officer having responsibility in a particular country for personnel subject to foreign criminal jurisdiction.

(b) Notwithstanding the criteria prescribed below, an officer exercising approved authority may, in his discretion, deny a request for the provision of counsel, provision of bail or payment of expenses, where the otherwise eligible requestor is in an absent without leave or deserter status at the time of the request, or otherwise is not then subject to United States military control, and there is no reasonable basis for the belief that the requestor will return to United States military control at the conclusion of the proceedings of service of an adjudged sentence, if any.

§ 845.4 Criteria for the provision of counsel and payment of expenses in criminal cases.

Requests for the provision of counsel and payment of expenses in criminal cases may be approved in pretrial, trial, appellate and posttrial proceedings in any one of the following criminal cases:

(a) Where the act complained of occurred in the performance of official duty; or

(b) Where the sentence which is normally imposed includes confinement, whether or not such sentence is suspended; or

(c) Where capital punishment might be imposed; or

(d) Where an appeal is made from any proceeding in which there appears to have been a denial of the substantial rights of the accused; or

(e) Where conviction of the offense alleged could later form the basis for administrative discharge proceedings for misconduct as a result of civil court disposition; or

(f) Where the case, although not within the criteria established in para-

graphs (a), (b), (c), (d), or (e) of this section, is considered to have significant impact upon the relations of US forces with the host country or is considered to involve any other particular US interest.

§ 845.5 Provision of bail in criminal cases.

Funds for the posting of bail or bond to secure the release of personnel from confinement by foreign authorities before, during, or after trial may be furnished in all criminal cases. Safeguards should be imposed to assure that at the conclusion of the proceedings or on the appearance of the defendant in court, the bail or bond will be refunded to the military authorities. Bail will be provided only to guarantee the presence of the defendant and will not be provided to guarantee the payment of fines or civil damages. Local US military authorities are expected to provide bail, in any case, only after other reasonable efforts have been made to secure release of pretrial custody to the US.

§ 845.6 Criteria for the provision of counsel and payment of expenses in civil cases.

Requests for provision of counsel and payment of expenses in civil cases may be granted in trial and appellate proceedings in either of the following civil cases:

(a) Where the act complained of occurred in the performance of official duty; or

(b) Where the case is considered to have a significant impact upon the relations of US forces with the host country or is considered to involve any other particular US interest. No funds shall be provided under this part in cases where the United States of America is in legal effect the defendant, without prior authorization of the Judge Advocate General.

§ 845.7 Procedures for hiring counsel and obligating funds.

(a) The selection of individual trial or appellate counsel will be made by the defendant. Such counsel shall represent the individual defendant and not the US Government. Selection shall be made from approved lists of attorneys who are qualified, competent and experienced in trial practice, and admitted for full practice, on their own account, before the courts of the foreign country involved. Normally, these lists will be coordinated with the local court or bar association, if any, and the appropriate US Diplomatic or Consular Mission and should include only those attorneys who are known or reputed, to comply with local attorney fee schedules or guides approved or suggested by local bar associations and should not exceed amounts paid under similar circumstances by nationals of the country where the trial is held. No fee may include any amount in payment for services other than those incident to representation before judicial and administrative agencies of the foreign country in the particular case for which the contract is made, and in no event may any contract include fees for representation in habeas corpus or related proceedings before tribunals of the United States. When appropriate and reasonable in the case, the payment of expenses, in addition to counsel fees, may include court costs, bail costs, charges for obtaining copies of records, printing and filing fees, interpreter fees, witness fees, and other necessary and reasonable expenses. Expenses will not include the payment of fines or civil damages, directly or indirectly.

(b) Whenever possible, the officer responsible under § 845.3 (or his designee), acting on behalf of the United States of America, shall enter into a written contract with the selected counsel. The contract will cover counsel fees, and, when appropriate, may cover other costs arising in defense of the case only in the court of first instance and will not include fees for representation on appeal. If the case is appealed to higher tribunals, supplemental agreements shall be executed for each appeal. A copy of the contractual agreement shall serve as the obligating document.

(c) If, for example, because of unusual circumstances or local customs, it is not practicable to enter into a written contract as in paragraph (b) of this section, action will be taken to record the agreement reached between the officer responsible under § 845.3 (or his designee) and the selected

counsel. This requirement may be met by a letter of commission or letter of understanding, executed between the officer responsible under § 845.3 (or his designee) and the selected counsel, or by a written request for legal services expressly or impliedly accepted by the selected counsel. Any such document shall contain, if possible, an agreed estimate of counsel fees and reasonable expenses and a statement that both fees and expenses will conform to those paid by local nationals under similar circumstances and will not exceed local fee schedules, if any. If this document does not include an agreed estimate of counsel fees and other reasonable expenses, an estimate will be provided by the contracting officer. A copy of the document, together with the estimate, will be furnished the accounting component and will serve as the commitment document for the reservation of funds.

(d) The provision of counsel and payment of expenses under this part is not subject to the provisions of the Defense Acquisition Regulation (Subchapter A, Chapter I of this title). However, the contract clauses set forth in Part 5, Section VII, Defense Acquisition Regulation, may be used as a guide in contracting.

(e) Because of the desirability of timely procedural action, it is suggested that there be designated, from among the judge advocates on the staffs of officers responsible under § 845.3, contracting officers with contracting authority limited to agreements described in this section. The effect of this designation would be to combine within one office the duties of contracting officer and judge advocate.

(f) Nothing in this part shall be construed as prohibiting the selection of qualified local counsel employed by the United States Government, if the serviceman freely selects such counsel.

§ 845.8 Payment of counsel fees and other expenses.

Payment of bills submitted by the selected counsel and other costs shall be made in accordance with the general provision of AFM 177-102 (Commercial Transactions at Base Level), relating to payment of contractual obligations and pertinent disbursing regulations. All payments under these procedures will be in local currency. Acceptance of services procured under these procedures shall be certified to by the officer responsible under § 845.3 (or his designee). Payments of bail may be made when authorized by such officers. Such authorization shall be in the form of a directing letter or message citing 10 U.S.C. 1037.

§ 845.9 Appropriated funds chargeable.

Authorized expenses incurred incident to implementation of the policies set forth in this part, including transportation and per diem expenses of trial observers, interpreters, and local counsel employees, shall be paid from appropriated funds of the service to which the defendant belongs. Payments shall be made from the appropriation current at time of payment, unless obligations for authorized costs have previously been established. Refunds shall be processed as appropriation refund. Such funds are chargeable to the base for operation and maintenance purposes (O&M or R&D, as applicable).

§ 845.10 Reimbursement.

No reimbursement will ordinarily be required from individuals with respect to payments made in their behalf under this part. However, prior to the posting of bail on behalf of a defendant, a signed agreement shall be secured from him wherein he agrees to remit the amount of such bail or permit the application of so much of his pay as may be necessary to reimburse the Government in the event that he willfully causes forfeiture of bail. In the event of such forfeiture, bail provided under this part shall be recovered from the defendant in accordance with that agreement. The agreement should include a statement that it does not prejudice the defendant's right to appeal to the Comptroller General of the United States and the courts after such payment or deduction has been made, if he considers the amount erroneous.

§ 845.11 Correspondence.

Judge advocates who advise officers responsible under § 845.3 are authorized to correspond directly with each other and with the Judge Advocate General of the service concerned for advice with regard to payment of counsel fees and other expenses.

PART 846 [RESERVED]

PART 847—AUTHENTICATION OF OFFICIAL AIR FORCE RECORDS FOR ADMISSION INTO EVIDENCE

Sec.
847.1 Purpose.
847.2 Definitions.
847.3 Rules of evidence.
847.4 Authenticating official records.
847.5 Offering records in evidence.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: 32 FR 569, Jan. 18, 1967, unless otherwise noted.

§ 847.1 Purpose.

This part tells how to authenticate or prove official Air Force records and copies or extracts thereof for admission in evidence in civilian judicial and quasijudicial proceedings.

§ 847.2 Definitions.

(a) *Official Air Force records.* All documents, records, or papers which are required by the Department of the Air Force to be prepared or processed, and retained.

(b) *Custodian.* A person in charge of an office in which official Air Force records are filed by law, regulation, or custom; a person so designated by proper authority; and for certain purposes, a person who has physical possession of official Air Force records for use in his official duties.

§ 847.3 Rules of evidence.

The rules of evidence at common law and various statutes specify how documents and records may be proved genuine and admitted as evidence. These rules ordinarily provide for proof by oral testimony. An exception provided by law and court rules permits the proof of public records by authenticated copies. With proper authentication, copies of official Air Force records are admissible in evidence instead of the originals. The method of authenticating official Air Force records provided in this part does not prevent proof of genuineness by any other authorized method.

§ 847.4 Authenticating official records.

Custodians are responsible for authentication of official Air Force records.

(a) *Civilian judicial or quasi-judicial proceedings.* An official Air Force record or an entry therein may be evidenced by an official publication thereof or by a copy attested by the custodian and accompanied with a certificate that such custodian has lawful custody. Use AF Form 44, "Certificate of Records," to authenticate official Air Force records and copies or extracts therefrom. The record custodian prepares the first certificate on the AF Form 44 and forwards it to Hq USAF (AFJALF), Washington, D.C. 20330, together with the documents being authenticated. The Secretary of the Air Force or his designee signs under the second certificate and affixes the seal of the Department of the Air Force to the AF Form 44. This procedure satisfies the requirements of Rule 44, Federal Rules of Civil Procedure, for the admission as evidence of official Air Force records, and usually will satisfy those of State jurisdictions.

(b) *Assistance of staff judge advocate.* Custodians of official Air Force records should consult their staff judge advocate for assistance in preparing:

(1) Certificates attesting to the authenticity of documents in their custody;

(2) AF Form 44; and,

(3) Voluminous or bulky records for authentication.

§ 847.5 Offering records in evidence.

(a) Do not offer official Air Force records physically into evidence unless they can be withdrawn and a copy substituted for the original. Copies of Air Force records, authenticated as provided in this part, are admissible in evidence instead of the records them-

selves. Copies must be used in those proceedings which do not permit the substitution of reproductions of the original documents admitted into evidence.

(b) If the custodian of official Air Force records certifies that after diligent search no record or entry of a specified matter exists in the records of his office, that certificate is admissible as evidence of such fact. The custodian prepares the first certificate on AF Form 44, stating that, after diligent search, no record or entry of a specified matter exists in the records of his office. The AF Form 44 is then forwarded for completion as provided in § 847.4(a).

PART 848—FOREIGN TAX RELIEF PROGRAM

Sec.
848.1 Purpose.
848.2 Policy.
848.3 Responsibilities.
848.4 Implementing the foreign tax relief program.
848.5 Reports.

AUTHORITY: 10 U.S.C. 8012 and 32 CFR Part 211.

SOURCE: 37 FR 13469, July 8, 1972, unless otherwise noted.

§ 848.1 Purpose.

This part implements Part 211 of this title which defines Department of Defense (DOD) policy on tax relief from foreign governments and describes procedures for obtaining such relief. It applies to Air Force activities worldwide.

§ 848.2 Policy.

(a) In keeping with DOD policies in Part 211 of this title, the Air Force will obtain, to the maximum extent practicable, effective relief from all foreign taxes wherever the ultimate economic burden of those taxes would be demonstrably borne, in the absence of such relief, by funds appropriated or available to the Air Force, including military assistance appropriations, or funds under the control of its nonappropriated fund activities.

(b) Tax relief will be deemed as not practicable to obtain if:

(1) The total economic burden of a tax is so small that it may be considered a de minimis matter and the tax is not readily identifiable in the normal course of business. The total economic burden of a tax is computed on the basis of its rate, as it is estimated to apply to DOD funds, multiplied by the number of contracts (or other occasions) during a fiscal year to which (or on which) that rate is reasonably expected to apply.

(2) The administrative burden of obtaining effective relief from a tax which is not readily identifiable in the normal course of business would be, in a particular instance, out of proportion to the amount of the relief obtained.

§ 848.3 Responsibilities.

(a) *Cognizant office.* Within the Department of the Air Force (DAF), the Office of The Judge Advocate General, International Law Division (JACI), is designated as the cognizant office for foreign tax matters. This office will serve as the office of primary responsibility (OPR) for foreign tax matters with continuing responsibility for supervising and monitoring the DAF foreign tax relief program within the DAF. JACI will submit foreign tax matters of major importance, or which require the attention of another department or agency of the Government, to the Office of the Air Force General Counsel (SAF/GC) for appropriate action.

(b) *Designated commanding officers (DCO).* The following subparagraphs contain a list of DCO's which have been designated pursuant to Part 211 of this title.

(1) European Command (EUCOM):
(i) Belgium: CINCUSAREUR.
(ii) Denmark: CINCUSAFE.
(iii) France: CINCUSAREUR.
(iv) Germany: CINCUSAREUR.
(v) Greece: CINCUSAFE.
(vi) Italy: CINCUSNAVEUR.
(vii) Luxembourg: CINCUSAREUR.
(viii) Morocco: CINCUSNAVEUR.
(ix) Netherlands: CINCUSAFE.
(x) Norway: CINCUSAFE.
(xi) Portugal: CINCUSNAVEUR.
(xii) Spain: CINCUSAFE.
(xiii) Turkey: CINCUSAFE.

(xiv) United Kingdom: CINCUSAFE.
(2) Pacific Command (PACOM):
(i) Australia: CINCPACREP.
(ii) Japan: COMUSJAPAN.
(iii) Korea: COMUSKOREA.
(iv) New Zealand: COMNAVSUPFOR Antarctica.
(v) Philippines: CINCPACREPPPHIL.
(vi) Taiwan: COMUSTDC.
(vii) Thailand: COMUSMACTHAI.
(viii) Vietnam: COMUSMACV.
(3) Atlantic Command (LANTCOM):
(i) Bermuda: CO Naval Station (CONAVSTA Bermuda).
(ii) Iceland: Commander, Iceland, Defense Force.
(iii) Azores: Commander U.S. Forces (COMUSFORAZ).
(4) Continental Air Defense Command (CONAD):
(i) Canada: Commander, Aerospace Defense Command (ADC), Ent AFB CO 80912.
(ii) Greenland: Commander, Aerospace Defense Command.
(5) Strike Command (STRICOM)—Middle East and Africa South of the Sahara: CINCSTRIKE/CINCMEAFSA.

(c) *Air Force liaison officer for tax matters (AFLO).* In countries where the commander of an Air Force unit or organization is not the DCO for tax matters, the Air Force oversea major commander will designate the commander of an Air Force unit within each such country to serve as the central point of contact between Air Force activities and the DCO and other competent authority on all matters pertaining to Air Force implementation of the DOD Foreign Tax Relief Program within that country.

§ 848.4 Implementing the foreign tax relief program.

(a) Each Air Force oversea major commander will issue regulations to prescribe procedures for submitting foreign tax questions for decision by a higher authority. These procedures will be consistent with policies and procedures, if any, of the unified command within the area.

(b) The DCO (where he is a commander of an Air Force unit or organization) or the AFLO for tax matters, as appropriate, will give advice and assistance on Air Force matters relating to tax relief provisions of applicable international agreements and relevant tax laws of foreign countries.

(c) All Air Force personnel with responsibilities under this part will place special emphasis on assisting contracting officers at the time contracts are drafted to ensure that the greatest possible relief from foreign taxation is obtained and that maximum understanding is achieved between the parties to the contract concerning the extent of foreign tax relief to be accorded or liability to be assumed.

(1) When a question exists regarding U.S. Government entitlement to relief or that of an Air Force contractor or subcontractor under an international agreement with the country concerned, or under the laws of that country or political subdivisions thereof, the contracting officer will refer the matter to the appropriate higher authority in accordance with the Air Force oversea major command regulation.

(2) When the contracting officer is located in the CONUS, the matter may be referred through command channels to HQ USAF/JACI as the cognizant office for foreign tax matters (see § 848.3(a)). Regardless of his CONUS or oversea location the contracting officer will indicate whether:

(i) The contractor has complied with the foreign tax provisions of the contract, as required by the Armed Services Procurement Regulations (§ 11.403 of this title) and

(ii) The contractor's obligations thereunder have been fully and promptly performed.

(3) The facts of each case and the ready availability of guidance and precedents bearing on the case will be the determining factors on whether the matter is resolved in-country (at embassy and DCO level), or referred to higher authority for resolution. If the matter is reported to Washington, it may be submitted through either unified command or Air Force channels. If the matter involves the Air Force, its contractors or subcontractors, regardless of the channels used for its submission, the Air Force oversea major commander involved will inform HQ USAF/JACI of the facts and legal

issues involved in the case (see § 848.3(a)).

(d) When a foreign tax problem is referred to higher authority in accordance with this regulation, the contracting officer will notify the contractor concerned.

§ 848.5 Reports.

The requirement that country tax law studies and revisions thereof be forwarded to the Office of the DOD General Counsel, and to each cognizant office of the military departments and Defense agencies has been assigned RCS: DD-SD(AR) 1036.

[37 FR 13469, July 8, 1972; 37 FR 13978, July 15, 1972]

SUBCHAPTER E—SECURITY

PART 850—INFORMATION SECURITY PROGRAM

Subpart A—Background

Sec.
850.1 Purpose.
850.2 Other implementing DOD directives.
850.3 Instructions for use.

Subpart B—General Provisions

850.4 References.
850.5 Combat operations.
850.6 Atomic Energy Act.
850.7 Access.
850.8 Critical nuclear weapon design information.
850.9 Classification, resolution of doubts.
850.10 Classification, improper classification.
850.11 Original classification authority.
850.12 Record and report requirements.
850.13 Downgrading and declassification authority, general.
850.14 Downgrading and declassification authority, HQ USAF.

Subpart C—Classification

850.15 Classification planning, format for classification guidance.
850.16 Classification planning, other security planning.
850.17 Recipient of classified information or material.
850.18 Reasons for classification.
850.19 Net national advantage.
850.20 Lead time advantage.
850.21 Classifying research data.
850.22 Effect of open publication, declassification for release.
850.23 Effect of open publication, release policy.
850.24 Re-evaluation of classification because of compromise.
850.25 Re-evaluation of classification because of compromise, notification.
850.26 Classification of restricted data and formerly restricted data.
850.27 General, responsibility for classification guides.
850.28 General, interests of other commands.
850.29 Research, development, test, and evaluation programs.
850.30 Distribution of guides to office, Secretary of Defense.
850.31 Procedures.
850.32 Final decision.
850.33 Tentative classification.
850.34 Classification of information previously determined to be unclassified.

Subpart D—Downgrading and Declassification

850.35 Dates or events carried forward.
850.36 General provisions.
850.37 Restricted data and formerly restricted data.
850.38 Submission of requests for review.
850.39 Action on requests for review.
850.40 Action on requests for review, appeals.
850.41 Notification of changes in classification or of declassification.

Subpart E—Marking

850.42 Overall and page marking.
850.43 Paragraph marking.
850.44 Subjects, titles, abstracts, and index terms.
850.45 Transmittal documents.
850.46 Electrically transmitted messages.
850.47 Photographs, films, and recordings (transparencies and slides).
850.48 Photographs, films, and recordings, magnetic tapes.
850.49 Photographs, films, and recordings (magnetic drums, discs, and disc packs and magnetic cards).
850.50 Pages of ADP listings.
850.51 Regarding and declassification markings.
850.52 Downgrading and declassification for ADP products.
850.53 Downgrading and declassification, use of indefinite dates.
850.54 Remarking material already marked Group 1, 2 or 3, or not group marked.
850.55 Restricted data.
850.56 Sample letter, preparation of classified correspondence.
850.57 Sample letter, letter of transmittal for classified documents.
850.58 Sample indorsement, indorsement to classified letters.
850.59 Sample letter, marking restricted data (RD) and formerly restricted data (FRD) documents.

Subpart F—Safekeeping and Storage

850.60 General policy.
850.61 Storage of classified material, Top Secret.
850.62 Storage of classified material, secret and confidential.
850.63 Storage of classified material, non-GSA approved containers.
850.64 Storage of classified material, restrictions on use of storage containers.

Sec.
850.65 Storage of classified material, transient couriers.
850.66 Procurement and phase-in of new storage equipment, preliminary survey.
850.67 Procurement and phase-in of new storage equipment, purchase.
850.68 Designations and combinations, numbering and designating storage facilities.
850.69 Designations and combinations, combinations to containers, changing, requirement for semiannual combination change.
850.70 Designations and combinations, combinations to containers (Use of AF Form 502).
850.71 Designations and combinations, combinations to containers, repair (of storage containers).
850.72 Designations and combinations, combinations to containers, turn-in.
850.73 Responsibilities of custodians.
850.74 Care during working hours, use of cover sheets.
850.75 Care during working hours, plastic covers.
850.76 Care after working hours.
850.77 Emergency destruction.
850.78 Emergency planning.
850.79 Safeguarding EOD publications.

Subpart G—Safeguarding Large Items of Classified Material

850.80 General.
850.81 Safeguarding classified equipment on aircraft.

Subpart H—Compromise of Classified Information

850.82 Policy.
850.83 Cryptographic information.
850.84 Responsibility of discoverer.
850.85 Preliminary inquiry.
850.86 Preliminary inquiry, determining type of incident.
850.87 Preliminary inquiry, reporting requirements.
850.88 Preliminary inquiry, notifications.
850.89 Investigation, USAF detailed procedures for the investigation of compromise or suspected compromise.
850.90 Investigation, special investigation requirements.
850.91 Investigation, modification of investigation and reporting requirements where incidents occur in hostile or politically denied areas.
850.92 Responsibility of authority ordering investigation review.
850.93 Responsibility of authority ordering investigation approval.
850.94 Responsibility of originator, review by originator.
850.95 Responsibility of originator, mitigating actions.
850.96 Espionage and deliberate compromise.
850.97 Unauthorized absentees.
850.98 Compromise of special access information.
850.99 Violations of the Atomic Energy Act of 1954.
850.100 Mandatory actions for conditions revealed by the initial inquiry.

Subpart I—Access, Dissemination, and Accountability

850.101 Determination of trustworthiness.
850.102 Continuous evaluation of eligibility.
850.103 Administrative withdrawal of security clearance.
850.104 Revocation of security clearance for cause.
850.105 Access by persons outside the executive branch, Congress.
850.106 Access by persons outside the executive branch, representatives of General Accounting Office (GAO).
850.107 Access by persons outside the executive branch, industrial, educational and commercial entities.
850.108 Access by persons outside the executive branch, historical researchers.
850.109 Access by persons outside the executive branch, former presidential appointees.
850.110 Access by persons outside the executive branch, foreign nationals, foreign governments, and international organizations, authority for disclosure.
850.111 Conditions governing access to official records for historical purposes.
850.112 International traffic in arms.
850.113 Access by persons outside the executive branch, for litigation purposes.
850.114 Emergency situations.
850.115 Access by visitors (other than foreign nationals) to Air Force installations and activities.
850.116 Access by immigrant alien personnel.
850.117 Policy, general.
850.118 Disclosure authority.
850.119 Intelligence material.
850.120 Restricted data and formerly restricted data, dissemination of restricted data within DOD.
850.121 Restricted data and formerly restricted data, dissemination of restricted data between Air Force and National Aeronautics and Space Administration (NASA).
850.122 Restricted data and formerly restricted data, dissemination of restricted data between Air Force and ERDA or Federal agency other than NASA.

Sec.
850.123 Restricted data and formerly restricted data, foreign disclosure.
850.124 Restricted data and formerly restricted data, additional controls over critical nuclear weapon design information.
850.125 Restraint on reproduction, designating officials.
850.126 Restraint of reproduction, designated equipment.
850.127 Instructions for preparing a request for visit or access approval (AEC Form 277).
850.128 Air Force officials authorized to certify personnel for access to restricted data, including critical nuclear weapon design information.
850.129 Restraint on reproduction, clearing machines.
850.130 Reproduction of top secret.
850.131 Serial numbering of secret and confidential.
850.132 Scientific and technical meetings, security measures for meetings.
850.133 Scientific and technical meetings, terms explained.
850.134 Scientific and technical meetings, general policy.
850.135 Scientific and technical meetings, guides for sponsorship.
850.136 Scientific and technical meetings, security responsibilities.
850.137 Top Secret, control officers.
850.138 Top Secret, accountability, AF Form 143, Top Secret Register.
850.139 Top Secret control organizational concept.
850.140 How to complete an AF Form 143.
850.141 Top Secret inventories.
850.142 Reproduction and retention.
850.143 Top Secret, receipts.
850.144 Top Secret, serial numbering.
850.145 Secret.
850.146 Secret receipting requirements.
850.147 Completion and disposition of AF Forms 310.
850.148 Processing incoming communications.
850.149 How to file AF Form 310.
850.150 Confidential.
850.151 Receipt of classified material.
850.152 Instructions for preparing the AF Form 310, document record and receipt.

Subpart J—Transmission

850.153 Removal of classified material.
850.154 Top Secret, accompanied State Department diplomatic pouch.
850.155 Top Secret, protected wire-line distribution systems.
850.156 Top Secret, selection of personnel.
850.157 Secret, transmission by diplomatic pouch.
850.158 Secret, postal limitations.
850.159 Secret, protective security service.
850.160 Secret, other carriers.
850.161 Confidential.
850.162 Confidential, signature security service.
850.163 Consignor—Consignee responsibility for shipment of bulky material, reports of shipment.
850.164 Transmission of restricted data, EOD pubs.
850.165 Routing of classified transmissions.
850.166 Intra-Interbase transmission.
850.167 Sending classified files to records centers.
850.168 Transmission by pneumatic tube systems.
850.169 Exemption from customs examination.
850.170 Designation of official couriers.
850.171 Classified transmission to multi-national combined commands.
850.172 Envelopes or containers.
850.173 Addressing, material containing critical nuclear weapon design information.
850.174 Receipt systems, Top Secret.
850.175 Receipt systems, Secret.
850.176 Receipt systems, Confidential.
850.177 Receipt systems, receipt forms.
850.178 Receipt systems, use of AF Form 1565, entry, receipt and destruction certificate.
850.179 How to complete Air Force Form 1565.

Subpart K—Disposal and Destruction

850.180 Policy.
850.181 Methods of destruction, destruction devices.
850.182 Methods of destruction, classified film or film products.
850.183 Methods of destruction, commercial destruction equipment.
850.184 Records of destruction, normal destruction procedure.
850.185 Records of destruction, central destruction procedure—special destruction activity.
850.186 Records of destruction, certificate of destruction.
850.187 Classified waste.

Subpart L—Security Education

850.188 Responsibility and purpose.
850.189 Scope and principles, job oriented.
850.190 Scope and principles, foreign intelligence threat.
850.191 Scope and principles, telephone discussions.
850.192 Scope and principles, disciplinary action.
850.193 Foreign travel briefings.
850.194 Debriefings.

Sec.

Subpart M—Foreign Origin Material

850.195 NATO, CENTO, and SEATO.
850.196 NATO, CENTO, and SEATO classified information.
850.197 Classified material of foreign origin.

Subpart N—Special Access Programs

850.198 Future programs.

Subpart O—Program Management

850.199 Military Departments, Air Force Classification Review Committee.
850.200 Committee membership.
850.201 Functions of the Committee.
850.202 Matters to be referred to the Committee.
850.203 Manner of referral to the committee.
850.204 Conduct of committee meetings.
850.205 Program monitorship.
850.206 Field program management.
850.207 Security manager program.
850.208 Command level monitorship.
850.209 Semiannual security inspections.
850.210 Reporting requirements.

Subpart P—Classification Management

850.211 General.
850.212 HQ USAF.
850.213 Major commands.

Subpart Q—Administrative and Judicial Action

850.214 Applicability.

Subpart R—Instructions Governing Use of Code Words, Nicknames and Exercise Terms

850.215 General.
850.216 Policy and procedure, code words.
850.217 Policy and procedure, code words, accountability.
850.218 Policy and procedure, nicknames, nickname assignments.
850.219 Policy and procedure, exercise terms.
850.220 Policy and procedure, exercise terms, exercise terms assignments.
850.221 Assignment of classified meanings to code words.
850.222 Notice of assignment, dissemination, and cancellations of code words and meanings.
850.223 Classification and downgrading instructions.
850.224 Security practices.

Subpart S—Component Implementations of DOD Issuances

850.225 Corrections.

AUTHORITY: 10 U.S.C. 8012.

SOURCE: 41 FR 26867, June 30, 1976, unless otherwise noted.

Subpart A—Background

§ 850.1 Purpose.

This part supplements the Department of Defense (DOD) Information Security Program Regulation (DOD ISPR 5200.1R) governing the classification, downgrading, declassification, and safeguarding of classified information. It applies to all Air Force activities, including the Reserve components. This part amplifies those DOD policies for use within the Air Force and provides procedural details where appropriate. Neither the DOD ISPR nor this part should be used without reference to all corresponding guidance in the other. Both the DOD ISPR and this part are to be issued simultaneously. Together, they take precedence over all other Air Force publications affecting the Information Security Program, except for special access programs that have been exempted. Where required, further supplementation is authorized. Forward recommendations for revision, or requests for interpretation, through command channels to HQ USAF/SPIB, Wash DC 20314. Compliance with both DOD 5200.1-R and this part is mandatory for each member of the Air Force. Violators are subject to administrative or judicial action.

§ 850.2 Other implementing DOD directives.

(a) 5200.1, The DOD Information Security Program, June 1, 1972.

(b) 5200.12, Security Measures, Approval and Sponsorship for Scientific and Technical Meetings Involving the Disclosure of Classified Information March 7, 1967.

(c) 5200.14, Defensive Security Briefings, June 28, 1962.

(d) 5200.22, Reporting of Security and Criminal Violations, Sept. 12, 1966.

(e) 5210.2, Access to and Dissemination of Restricted Data, October 18, 1968.

(f) 5210.43, Security Termination Statement and Debriefing Procedures, October 22, 1963.

(g) 5210.44, Security Orientation, Education and Training, February 17, 1964.

(h) 5210.50, Investigation of and Disciplinary Action Connected With Unauthorized Disclosure of Classified Defense Information, April 29, 1966.

(i) 5400.4, Provision of Information to the Congress, December 24, 1966.

(j) 5535.2, Secrecy of Certain Inventions and Withholding of Patent; Delegation of Authority to the Secretaries of the Army, Navy, and Air Force, September 30, 1966.

§ 850.3 Instructions for use.

The format of this regulation is compatible with that of the DOD ISPR. The reader should first refer to the DOD ISPR for basic policy, and then to this part for Air Force supplementation. When the DOD ISPR contains all available guidance on a subject this part contains no text. When this part implements the DOD issuances named above, additional parts or subparts of Air Force guidance are inserted in the text. For maximum effectiveness, file the DOD ISPR with this part under procedures in AFR 5-31, Publications Libraries and Individual Publications Sets.

Subpart B—General Provisions

§ 850.4 References.

Corresponding USAF references are shown in § 850.25.

§ 850.5 Combat operations.

In combat or combat-related operations, messages that contain Secret or Confidential information may be transmitted in the clear over any wire circuit or radio channel when time cannot be spared for encryption and the information cannot be acted on by the enemy in time to influence the situation in question. In order to minimize insecure transmissions mark messages "SEND IN THE CLEAR" over the signature of the commander or his designee.

§ 850.6 Atomic Energy Act.

Requirements pertaining to Restricted Data and Formerly Restricted Data have been included in this regulation.

§ 850.7 Access.

The ability and opportunity to obtain knowledge of classified information.

§ 850.8 Critical nuclear weapon design information.

That Top Secret Restricted Data or Secret Restricted Data revealing the theory of operation or design of the components of a thermonuclear or implosion-type fission bomb, warhead, demolition munition or test device. Specifically excluded is information concerning arming, fuzing, and firing systems; limited life components; and total contained quantities of fissionable, fusionable, and high explosive materials by type. Among these excluded items are the components which Service personnel set, maintain, operate, test, or replace.

§ 850.9 Classification, resolution of doubts.

The resolution of doubts principle set forth in this paragraph of the DOD ISPR is a key element in the overall effort to avoid unnecessary classification. However, before applying the principle, be sure that all pertinent facts have been obtained and considered.

§ 850.10 Classification, improper classification.

Any person who learns of a classification that has been assigned to conceal administrative error or inefficiency, or to prevent personal or departmental embarrassment requests review of the classification under the DOD ISPR, para 2-103, and this part, and notifies HQ USAF/SPIB through appropriate command channels. A commander through whom such notification is sent should initiate corrective action if the matter is within his jurisdiction, and may add to the original notification any comments considered pertinent. In every instance, however, the commander forwards the original notification promptly to HQ USAF/SPIB. HQ USAF/SPIB acknowledges receipt directly to the originator. If acknowledgement has not been received within 45 days, the originator for-

wards a copy of the notification directly to HQ USAF/SPIB.

§ 850.11 Original classification authority.

An original classification is one made in the manner described in the DOD ISPR, para 1-303a. Classifications made in the manner described in para 1-303b of the DOD ISPR do not require original classification authority.

(a) Officials authorized to make original Top Secret classifications are listed in the DOD ISPR, Appendix A. Lists of Air Force officials authorized to make original Secret and Confidential classifications are disseminated annually by HQ USAF/SPIB.

(b) Any request for additional original classification authority must be fully justified.

(1) Address requests for original Top Secret or Secret classification authority to HQ USAF/SPIB.

(2) Address requests for original Confidential classification authority to an appropriate command official who is himself an authorized Top Secret or Secret classifier.

(c) Approved additions to the list of original Confidential classifiers are forwarded to and are subject to review by HQ USAF/SPIB.

§ 850.12 Record and report requirements.

Each Air Force Activity maintains a list of officials within that activity who have been designated to make original classifications. The overall Air Force listing is maintained by HQ USAF/SPIB. See § 850.210 for additional guidance on reporting requirements.

§ 850.13 Downgrading and declassification authority, general.

The authority to downgrade or declassify information is assigned to:

(a) The official who made the original classification;

(b) The official or agency that assumed or succeeded to the functions of the original classifier; and

(c) Higher authority in the same chain of command. In addition, each official having original classification authority pursuant to § 850.11 may authorize in writing such other officials as he deems necessary to downgrade and declassify, in his name, information over which he has classification authority.

§ 850.14 Downgrading and declassification authority, HQ USAF.

Responsibility and authority for downgrading and declassifying information originated in HQ USAF, or in one of its predecessor agencies, is assigned to the Chief of the HQ USAF major staff office having primary responsibility for the subject matter.

(a) Official clearance of information, in accordance with established directives, by the Office of the Secretary of the Air Force, Office of Information, Office for Security Review, also shall constitute authority for declassification of the specific information cleared.

(b) Preparation of declassification notices in accordance with § 850.22 are the responsibility of the office or agency requesting official clearance of the information. However, if a document contains information from an agency other than the Air Force, the consent of that agency must be obtained.

(c) The chief of each of the following Air Staff Offices designates an official who is authorized to downgrade and declassify information under the classification jurisdiction of the staff office concerned: PR, XO, RD, LG, IN, SP.

(d) The same official is authorized to downgrade and declassify information classified at echelons below HQ USAF, provided that other interested major Air Staff offices concur in the action, and full consideration has been given to the views of the originating headquarters.

(e) When a document is clearly and beyond all doubt overclassified, the foregoing provisos do not apply. However, a copy of any downgrading or declassification action taken without meeting these requirements will be sent to HQ USAF/SPI.

(f) For every downgrading or declassification action taken, the responsible official must issue notification in accordance with § 850.22. (The intent of this paragraph is to simplify and expedite downgrading and declassification

actions by obviating referral to the Chief of Staff or to the Chief of the major HQ USAF office concerned. This paragraph in no way lessens the responsibility of other elements of the major staff office, or of major commands or separate operating agencies for downgrading and declassifying information for which they are primarily responsible.)

Subpart C—Classification

§ 850.15 Classification planning, format for classification guidance.

Classification guidance for a plan or operations order may be included in the Security Annex, or as a separate section prefatory to the main body of the plan or order. Classification guidance for a system, program, or project (other than a procurement action) may be prepared as a section of the basic directive or as a separate classification guide.

(a) For procurement actions involving classified information, prepare DD Form 254, Contract Security Classification Specification, as prescribed by AFR 205-4, Air Force Participation in the DOD Industrial Security Program, and the DOD Industrial Security Regulation (DOD 5220.22R).

(b) If the classification considerations in the procurement action are not complex, the DD Form 254, by itself, may suffice.

(c) For major projects, or for programs, in which classification considerations are complex, prepare a security classification guide using the format prescribed in AFR 205-37, Security Classification Guides, and attach to the DD Form 254. (For further instructions concerning classification guides, see DOD ISPR, section 4, and related paragraphs of the part below.)

§ 850.16 Classification planning, other security planning.

In addition to classification matters, advance planning must take into account other information security requirements. Security instructions for each plan, operations order, program, or project should cover the following points, as applicable: Reproduction limitations; dissemination restrictions; use of code words; special access authorization requirements; briefing and debriefing requirements; special physical security measures; public affairs issues; special procedures for approving public releases; special security requirements related to transporting personnel or material; provisions for unclassified shipments to classified destinations; and special emergency destruction procedures.

§ 850.17 Recipient of classified information or material.

The time requirement set in DOD ISPR (30 days from receipt) is a maximum. Replies to classification review requests must be prompt to assure that operational needs of the requester are met. Make HQ USAF/SPIB an information addressee on each classification review request addressed to HQ USAF and on the HQ USAF reply. Commanders shall establish similar requirements to provide for a central point for monitoring classification requests to, and replies from, their organizations.

§ 850.18 Reasons for classification.

Classification based on association with other information is permissible only when the association reveals specific classified information.

§ 850.19 Net national advantage.

Note that the "net advantage" mentioned in this paragraph must be to the nation; not to any individual governmental agency, commercial firm, or industry as a whole. If, from the standpoint of USAF the information under consideration warrants classification, final decision to withhold classification (or to declassify) is made only by the Chief of Staff, HQ USAF, or higher authority.

§ 850.20 Lead time advantage.

A generalized relationship to national defense is not sufficient reason for classifying on the basis of lead time advantage. Identify specific military application and operational advantage before classifying. For guidance on the classification of weapons systems, supporting systems, associated subsys-

tems, and miscellaneous aircraft and aircraft engines see AFR 205-49.

§ 850.21 Classifying research data.

Any original classification of basic research data must be approved by the Deputy Chief of Staff, Research and Development, HQ USAF, or higher authority.

§ 850.22 Effect of open publication, declassification for release.

Classified information proposed for public release must be declassified before release. The official who declassified must promptly notify all Air Force activities that hold, or are directly concerned with, the information.

(a) Occasionally, senior Air Force or Department of Defense officials make public releases without prior notice to the Air Staff office of primary responsibility. On learning that such a release has been made, the Air Staff office of primary responsibility determines from the releasing official's office what specific information was declassified, and issues a declassification notice to all Air Force activities that hold, or are directly concerned with, the declassified information.

(b) If an Air Force activity other than the Air Staff learns of such a release, and does not receive a declassification notice within a reasonable period of time it reports the release to the Air Staff office of primary responsibility and requests appropriate declassification action.

§ 850.23 Effect of open publication, release policy.

Public release of unclassified official information is governed by Part 806, and by the 190 series of Air Force regulations.

§ 850.24 Re-evaluation of classification because of compromise.

See the DOD ISPR, chapter VI, and this part for more complete information concerning action in event of compromise.

§ 850.25 Re-evaluation of classification because of compromise, notification.

Upgrading action under these circumstances is seldom justified. If such action is taken, notify HQ USAF/SPIB.

§ 850.26 Classification of restricted data and formerly restricted data.

Information shall not be designated Restricted Data or Formerly Restricted Data unless the designation is specifically required by official guidance or is clearly consistent with the definitions in the DOD ISPR paras 1-310 and 1-315.

§ 850.27 General, responsibility for classification guides.

Each commander of a major command, and each chief of a major staff office, is responsible for development and issuance of classification guidance for each system, program, or project for which he has management responsibility.

(a) Unless classification considerations are so simple that they can readily be incorporated in a section of the authorizing directive (or in the case of procurement actions, in the basic DD Form 254), prepare a formal classification guide, following as closely as practicable the format prescribed in AFR 205-37.

(b) When management responsibility transfers from one command to another, classification responsibility transfers concurrently. The losing command reviews the classification guide and assures that it is current and accurate as of the time of transfer.

§ 850.28 General, interests of other commands.

The commander or other official responsible for preparing a classification guide actively solicits views of other commands or agencies having collateral interest in the system, program, or project. The views of any command that is an operational user of the system or item covered by the guide will be obtained. The command preparing the guide will resolve any differences in views, using the following guidelines:

(a) Operational considerations must be given special attention.

(b) Full interchange of the rationale behind the views of the differing agen-

cies normally should result in agreement on classification guidance.

(c) If, after exchange of rationale, one or more agencies (not at higher echelon than the preparing agency) remain in disagreement, the preparing agency:

(1) Makes its own decision;

(2) Advises the differing agencies of its decision and intent to proceed with publication of the classification guidance; and

(3) Publishes the guidance unless notified within 15 workdays that another agency is referring the matter to a higher echelon.

§ 850.29 Research, development, test, and evaluation programs.

The classification guidance which must be approved by the Director, Defense Research and Engineering, or by the Assistant Secretary of the Air Force (Research and Development) is the guidance included in the appropriate program document. (The term "master security classification guide" in paragraph (b) of this section is the proposed classification guidance prepared by the command having management responsibility.)

(a) In the approval process, the command meets its responsibility by including such proposed guidance in the program document submitted to HQ USAF. Deputy Chief of Staff, Research and Development, assures that the approval requirements of this paragraph of the DOD ISPR are met.

(b) On receipt of the approved classification guidance, the command with management responsibility prepares the actual classification guide. Subsequent changes to guidance do not require approval of the Director, Defense Research and Engineering, or the Assistant Secretary of the Air Force (Research and Development) if they are consistent with the initially approved guidance.

§ 850.30 Distribution of guides to office, Secretary of Defense.

Classification guides (and other classification guidance) are furnished to each organization or activity having an official interest in the subject matter. In addition, one copy of each formal classification guide is furnished by the originator, to: Directorate for Security Review, Office, Assistant Secretary of Defense (Public Affairs); Director of Information Security, Office, Deputy Assistant Secretary of Defense (Security Policy); HQ USAF/SPIB; SAF/OIS; and Deputy Inspector General for Inspection and Safety (HQ USAF/IGD) Norton AFB CA 92409.

§ 850.31 Procedures.

Overall classification management responsibilities for the Air Force are assigned to HQ USAF/SPIB.

§ 850.32 Final decision.

Referrals to OSD under this paragraph shall be made by HQ USAF/SPIB.

§ 850.33 Tentative classification.

Material forwarded to HQ USAF should be addressed to the Air Staff office having primary interest in the subject matter or, if this cannot be determined, to HQ USAF/SPIB.

§ 850.34 Classification of information previously determined to be unclassified.

Send an information copy of any classification made under this paragraph to HQ USAF/SPIB. The letter of notification will be classified Confidential and will contain a regrading statement: "Regraded Unclassified when upgrading action is completed."

Subpart D—Downgrading and Declassification

§ 850.35 Dates or events carried forward.

The start date for computing downgrading and declassification in the GDS is the date on which the information was originally classified. This start date applies throughout the classified life of the information, and is not affected by subsequent use of the information in new documents.

(a) Classification guides and DD Forms 254 should specify the downgrading and declassification dates as computed from the start date, and any reissuance of the guidance should carry these same dates forward.

(b) Insert the original declassification date in the "Declassify on

90-112 O—82——22

————" space in the GDS marking on each document classified on the basis of containing the information, regardless of the date of the new document. (Note: Classification guides and DD Forms 254 often deal with categories of information rather than with specific data. When information within a category changes, as in the case of test results or frequencies of electronic equipment, the person revising the classifications guide may determine that dates in the original guidance should not be arbitrarily carried forward.)

§ 850.36 General provisions.

Each Top Secret classification authority forwards to HQ USAF/SPIB an information copy of any written policy direction authorizing classes or types of information to be exempted from the GDS. If the policy direction is contained in a classification guide, forwarding the guide under DOD ISPR para 2-307 meets this requirement. HQ USAF/SPIB reviews policy direction to ensure that exercise of exemption authority is held to a minimum.

§ 850.37 Restricted data and formerly restricted data.

Restricted Data and Formerly Restricted Data are exempt from the General Declassification Schedule in accordance with category (2), DOD ISPR para 3-301. Regrading or declassification of Restricted Data is a determination that must be made by the Energy Research and Development Administration. Declassification of Formerly Restricted Data is a joint DOD-ERDA determination. Air Force focal point for coordination with ERDA in such matters is HQ USAF/SPIB.

§ 850.38 Submission of requests for review.

Request for review of Air Force records from the general public are received and processed by HQ USAF/DADP.

§ 850.39 Action on requests for review.

HQ USAF/DADP:

(a) Acknowledges receipt of the request;

(b) Determines whether the records can be obtained with only a reasonable amount of effort;

(c) If the records cannot be obtained, advises the requester in accordance with the DOD ISPR para 3-401;

(d) If the records can be obtained, requests the Air Staff office having primary functional interest in the subject matter to review the records and provide a basis for reply;

(e) Replies to the person or agency that requested review;

(f) Maintains records of all requests and action taken on each.

§ 850.40 Action on requests for review, appeals.

For Air Force records, the right of appeal is to the Air Force Classification Review Committee (AFCRC) through HQ USAF/SPI.

§ 850.41 Notification of changes in classification or of declassification.

Change or cancel the classification of a standard or specialized publication or any portion thereof by issuing a numbered change to the publication. Record the change or cancellation in the appropriate accountability record and, in the case of a Top Secret document, in the Top Secret Control Register. Adjust accountability accordingly.

Subpart E—Marking

§ 850.42 Overall and page marking.

The classification marking must be in letters larger than those used in the text of the document, except in the case of documents produced on rapid printing automated data processing equipment. In the latter case, the printwheels of the equipment may be used, provided that the classification markings are made clearly distinguishable from the printed text of the document.

§ 850.43 Paragraph marking.

Mark each section, part, or paragraph of a classified document, even if there are no differences in the classification.

(a) When appropriate, add the abbreviation "CNWDI" for Critical Nuclear Weapon Design Information to

the "RD" paragraph marking. When two or more abbreviations are combined, separate by hyphens. For example: (C-RD) or (S-RD-CNWDI). See §§ 850.56 and 850.59 for examples of correct marking. Note that the abbreviations are for internal use only, not for overall marking of pages or material, except that they may be used on photographic negatives (including microfilm) when necessary to avoid obscuring important elements of the photograph.

(b) When abbreviations are used on a negative, add the full markings on any prints made from the negative.

§ 850.44 Subjects, titles, abstracts, and index terms.

When the subject or title of a NATO, SEATO, CENTO, or other foreign classified document is not marked to indicate whether or not it is classified, it is afforded the same degree of protection required for the document.

§ 850.45 Transmittal documents.

Mark a document that transmits Restricted Data-Critical Nuclear Weapon Design Information with the added notation: "Attachment contains (as appropriate)." In the case of multiple attachments, indicate which contains such information.

§ 850.46 Electrically transmitted messages.

Mark classified messages as prescribed in AFM 100-20. Record copies of classified messages will be marked to identify the classifier (see DOD 5200.1-R, para 2-200).

(a) When a message contains Critical Nuclear Weapon Design Information, the notation "CNWDI" immediately follows the classification in the first item of information in the text.

(b) Directives that establish special access restrictions must also specify the type of handling (for example, Special Category or Limited Distribution) required for electrical transmissions. (AFM 100-20, Management of Electrical Record Transmissions, prescribes the marking procedures when special access material is electrically transmitted.)

§ 850.47 Photographs, films and recordings (transparencies and slides).

The border, holder, or frame of the first slide in a set must reflect the classification of the set downgrading/declassification notation, the office of origin and the date. The abbreviations specified in § 850.43 may be used where space on the holder is limited.

(a) An individual slide, permanently removed from a set must, at the time it is removed, also be marked with the appropriate downgrading notation, date, and office of origin. Other slide borders, holders, or frames within the set require only the classification marking.

(b) For Top Secret slides, the border, holder, or frame of the first slide in a set and any slide permanently removed from a set, must additionally be marked to depict copy number and control/register page number.

§ 850.48 Photographs, films, and recordings, magnetic tapes.

When audio, video, or digital magnetic tape is used to record classified information, mark the tape reel to reflect the highest level of classified information that has ever been recorded on that tape or since it was last degaussed by approved degaussing equipment (see DOD 5200.28M). Tapes degaussed in accordance with DOD 5200.28M are unclassified.

§ 850.49 Photographs, films, and recordings (magnetic drums, discs, and disc packs and magnetic cards).

When removed from the processing machine, each individual drum, disc, or disc pack which has not been declassified by an approved declassification procedure (over-written or erased by a magnet, see AFR 300-8 Security Requirements for Automatic Data Processing Systems (ADPS)) is marked with the highest classification of material ever recorded on it, and bears a label showing current contents and classification data. If stored in a container, e.g., card file boxes, the container also shows the highest assigned classification.

§ 850.50 Pages of ADP listings.

Printwheels of the equipment may be used to mark the classification on first and last pages and front and back covers, if any, provided that the markings are clearly distinguishable from the printed text.

§ 850.51 Regrading and declassification markings.

These actions will be taken whenever this material is removed from file or storage or when notified of regrading action. Regrading/declassification action will be annotated on the accountability record of the document.

§ 850.52 Downgrading and declassification for ADP products.

Magnetic tapes, discs, disc packs, and drums on which classified information has been recorded are by definition classified documents. However, due to the dynamic capabilities of modern computers, the machine marking of ADP products is not always programmatically feasible or cost productive. Therefore:

(a) When the data base does not contain downgrading and declassification instructions in files, the Data Processing Installation will advise each ADP customer that the downgrading and declassification instruction must be applied to the ADP end product (for example, printed products or microform products) immediately after receipt.

(b) When the ADP customer is not the OPR for the files accessed, the correct marking must be secured from the OPR for the file.

(c) When multiple downgrading and declassification instructions are used, only the most restrictive will be applied to the ADP end product.

§ 850.53 Downgrading and declassification, use of indefinite dates.

The date entered in the "Declassify on" line must be as early as possible. In no case shall it exceed 30 years from the date of the document containing only information over which the DOD exercises original classification authority. Terms such as "Indefinite" will not be used in lieu of a specific date.

§ 850.54 Remarking material already marked Group 1, 2, or 3, or not group marked.

Marking a Group 3 document "Excluded from General Declassification Schedule" does not nullify the downgrading schedule that has heretofore applied to Group 3 material: downgrade at 12-year intervals; not automatically declassified. Also, note that the "Excluded from * * *" Marking does not preclude setting of dates for automatic downgrading and declassification; the original classification authority is encouraged to take such action.

§ 850.55 Restricted data.

For classified information or material containing Critical Nuclear Weapon Design Information, the following additional marking is required: CRITICAL NUCLEAR WEAPON DESIGN INFORMATION—DOD DIRECTIVE 5210.2 APPLIES.

Documents containing such information that originated before January 18, 1969 require the additional marking only if withdrawn from files for action or review.

§ 850.56 Sample letter, preparation of classified correspondence.

TOP SECRET

DEPARTMENT OF THE AIR FORCE

HEADQUARTERS UNITED STATES AIR FORCE

WASHINGTON, D.C.

20314

[SEAL]

Reply to Attn of: SPIB

1 May 1975

Subject: Preparation of Classified Correspondence (U)

To: AFLC/SP

1. (C) Use the same format as for unclassified correspondence. Mark for classification as illustrated herein. Markings in this letter show that all portions of paragraph 1 are Confidential and that other portions of the letter are classified as follows:

a. Subject, paragraphs 3 & 4, basic (first) portion of paragraph 2 and subparagraph 2b: Unclassified.

b. Subparagraph 2a: Top Secret.

2. (TS) Copy numbers must be assigned to Top Secret documents. Top Secret docu-

ments must include instructions prohibiting or permitting reproduction. Do this by stamping or by including a statement in the text. For example: (U)

a. (TS) "Reproduction of paragraph 2 is prohibited without consent of (fill in office of origin)."

b. (U) "Reproduction authorized to extent necessary to accomplish an official government function."

3. (U) See pertinent sections of this regulation for added markings required for certain material (e.g., Restricted Data, foreign information).

4. (U) This letter is marked to show predetermined downgrading and declassification dates earlier than the General Declassification Schedule.

FOR THE CHIEF OF STAFF

JOHN J. DOE, Major General, USAF
The Chief of Security Police

Copy 1 of 3 copies

TOP SECRET

DOWNGRADE TO:
SECRET on 1 May 76
CONFIDENTIAL on 1 May 77
DECLASSIFY on 1 May 78
CLASSIFIED BY: HQ USAF
The Chief of Security Police

(This sample letter is Unclassified)

§ 850.57 Sample letter, letter of transmittal for classified documents.

TOP SECRET

DEPARTMENT OF THE AIR FORCE

HEADQUARTERS UNITED STATES AIR FORCE

WASHINGTON, D.C.

20314

[SEAL]

Reply to Attn of: SPIB

1 May 1975

Subject: Letter of Transmittal for Classified Documents (U)

To: TAC/SP

1. This letter illustrates requirements for preparing a letter used to transmit classified documents.

2. At the top and bottom of the transmittal letter mark the highest classification of any information in the letter itself or in any of its attachments. In addition, if the letter itself contains classified information apply paragraph marking as shown in Figure 4-1.

3. If the transmittal letter is classified at a lower level than the attachment(s), or is unclassified, so state. Do this by including a final paragraph such as 5, or by stamping such as:

When separated from attachment(s) this letter is ————————————

4. Show the classification and number of copies of each classified attachment. For Top Secret attachments, also show the copy number.

5. This letter is Confidential (or unclassified) when separated from attachment(s).

FOR THE CHIEF OF STAFF

JOHN J. DOE, Maj Gen, USAF
The Chief of Security Police

3 Atchs
1. Draft AFR 205-99(S) (2 cys)
2. Draft AFR 205-1(U)
3. WMP 72-1(TS) (cy 45)

TOP SECRET

(This sample letter is unclassified)

§ 850.58 Sample indorsement, indorsement to classified letters.

TOP SECRET

1st Ind to HQ USAF/DA Ltr, 25 Oct 72, Indorsements to Classified Letters

HQ USAF/SPIB

1 May 1975

To: CINCAD/SP

1. This illustrates requirements for preparing an indorsement to a classified letter or to a letter used to transmit classified attachments.

2. At the top and bottom of the indorsement mark the highest classification of any information in the indorsement itself or in the basic letter or any attachments thereto. In addition, if the indorsement itself contains classified information apply paragraph markings as shown in Figure 4-1.

3. If the indorsement standing alone is unclassified, so state. This may be done by including a final paragraph such as 4, below, the preferred method, or by an appropriate typed or stamped notation:

When atch(s) —— is (are) withdrawn or not attached, this indorsement is unclassified.

or

This indorsement is unclassified when separated from the basic correspondence.

4. This indorsement does not contain classified information.

FOR THE CHIEF OF STAFF

JOHN J. DOE, Maj Gen, USAF
The Chief of Security Police

3 Atch
nc

TOP SECRET

(This sample indorsement is unclassified)

§ 850.59 Sample letter, marking restricted data (RD) and formerly restricted data (FRD) documents.

SECRET

DEPARTMENT OF THE AIR FORCE

HEADQUARTERS UNITED STATES AIR FORCE

WASHINGTON, D.C.

20314

[SEAL]

Reply to Attn of: SPIB

1 May 1975

Subject: Marking Restricted Data (RD) and Formerly Restricted Data (FRD) Documents (U)

To: CINCUSAFE/SP

1. (U) Markings in this sample letter indicate that:

a. The subject line and paragraphs 1, 4, 5 and 6 are unclassified.

b. Paragraph 2 is Confidential RD.

c. Paragraph 3 is Secret FRD.

d. The document as a whole is designated RD.

2. (C-RD) If a letter contains Critical Nuclear Weapon Design Information, add "CNWDI" to the paragraph markings as appropriate; for example: "(S-RD-CNWDI)." Such a letter would also bear, in addition to the RD notation at the bottom of this letter, the marking: "CRITICAL NUCLEAR WEAPON DESIGN INFORMATION-DOD DIRECTIVE 5210.2 APPLIES."

3. (S-FRD) A letter containing FRD, but not RD, would bear, instead of the RD notation at the bottom of this letter, the marking:

FORMERLY RESTRICTED DATA

Unauthorized disclosure subject to administrative and criminal sanctions. Handle as Restricted Data in foreign dissemination. Atomic Energy Act of 1954.

4. (U) Where both RD and FRD are present, the RD takes precedence and the FRD marking is omitted; for example, this letter is designated RD even though the RD part is only Confidential while the FRD part is Secret.

RESTRICTED DATA

This material contains Restricted Data as defined in the Atomic Energy Act of 1954. Its dissemination to any unauthorized person is prohibited.

CLASSIFIED BY: AF Security Classification Guide for Nuclear Weapons, May 1973

5. (U) The RD and FRD marking is in itself evidence of exemption from predetermined downgrading or declassification. Further notation in this regard is not required. However, a "Classified by" line is necessary.

6. (U) If this letter had two or more pages, the RD, FRD and CNWDI page markings and the "Classified by" notation would not be placed on the second and subsequent pages. Paragraph marking, and the usual page marking for classification level, would be required throughout the document.

FOR THE CHIEF OF STAFF

JOHN J. DOE, Maj Gen, USAF

The Chief of Security Police

SECRET

(This sample letter is unclassified)

Subpart F—Safekeeping and Storage

§ 850.60 General policy.

The security evaluation of local conditions is accomplished by the official responsible for the safekeeping of the classified material. When conditions in the storage environment do not provide an acceptable degree of security, he provides supplemental safeguards.

§ 850.61 Storage of classified material, Top Secret.

The storage of Top Secret material is limited to storage facilities under the control of designated primary or subordinate Top Secret Control Officers, unless otherwise authorized in writing by the official that appointed the Top Secret Control Official.

(a) Containers. Standards for Class A vaults are prescribed in AFM 88-15, Air Force Design Manual—Criteria and Standards of Air Force Construction.

(b) Alarmed Areas. The security force must be able to respond in sufficient time to have a reasonable opportunity to preclude the compromise of classified material. Such response time normally should not exceed five minutes.

(c) Continuous Surveillance. An area under continuous surveillance by authorized personnel, provided the local official responsible for safeguarding the material has determined that the protection afforded is at least equal to that prescribed in the DOD ISPR, para 5-102a2. Such areas shall be des-

ignated "Controlled Areas" in accordance with AFR 125-37, Protection of USAF Resources.

§ 850.62 Storage of classified material, secret and confidential.

Standards of Class B vaults and secure storage rooms are prescribed in AFM 88-15. (The standards for secure storage rooms were upgraded by Change 2 to that manual on December 30, 1971. Secure storage rooms constructed before that date under less restrictive criteria may continue to be used for the storage of Secret and Confidential material when supplemental safeguards are adjudged by local authorities to provide adequate protection in accordance with the DOD ISPR, and §§ 850.60 and 850.63.)

§ 850.63 Storage of classified material, non-GSA approved containers.

As a minimum such containers must have been modified in accordance with TO46A3-1-502. Lock bar cabinets are not approved for the storage of CRYPTO material.

§ 850.64 Storage of classified material, restrictions on use of storage containers.

Do not store funds, weapons, medical security items, controlled drugs, or precious metals in any safe, security filing cabinet, or other safe-type filing container used for the storage of classified material. (A commander may waive this restriction in emergencies. He may also waive it temporarily when acceptable storage facilities are not available, but in such a case he shall take prompt action to procure the required storage facilities.)

§ 850.65 Storage of classified material, transient couriers.

Installation commanders will provide a repository for the overnight storage of classified documents. Where a receipt is required, the AF Form 12, Accountable Container Receipt will be used.

§ 850.66 Procurement and phase-in of new storage equipment, preliminary survey.

The scope of survey should be limited to a single installation unless there is reason to believe that a wider survey would permit cost effective redistribution.

§ 850.67 Procurement and phase-in of new storage equipment, purchase.

Submit waiver requests through command channels to HQ USAF/SPID.

§ 850.68 Designations and combinations, numbering and designating storage facilities.

Enter this number on AF Form 502, Persons Responsible for Safe, and post as prescribed in § 850.70.

§ 850.69 Designations and combinations, combinations to containers, changing, requirement for semiannual combination change.

The combinations to vaults or containers used to store classified material which has been originated by International Pact Organizations shall be changed at least semiannually.

§ 850.70 Designations and combinations, combinations to containers (Use of AF Form 502).

Post AF Form 502 conspicuously on the outside of the security container. When more than four persons have knowledge of the combination to a vault or security filing cabinet, list the names of only four persons on the AF Form 502. The combinations of vaults and containers used for the storage of classified material should never be physically recorded in any way. However, if it becomes necessary to record combinations to provide for efficient operation and for emergencies, commanders are authorized to record combinations in a central location.

§ 850.71 Designations and combination, combinations to containers, repair (of storage containers).

The requirements for inspection, preventive maintenance, and repair of filing cabinets authorized for storage of classified material are contained in TO 00-20-F-2. All containers drilled to gain access shall be promptly repaired and inspected to insure that they operate properly and provide acceptable security. Use thereafter is limited to storage of material classified no

higher than Confidential unless the drilled parts are replaced with new or repaired combination locks or drawer heads. Personnel performing maintenance on security containers, neutralizing lock-outs or repairing drilled parts will have security clearances to the level of the material stored in the containers.

§ 850.72 Designations and combinations, combinations to containers, turn-in.

Combinations to safes turned in to supply will be set on 50-25-50.

§ 850.73 Responsibilities of custodians.

Top Secret Control Officers and persons responsible for safeguarding Secret and Confidential material establish written procedures which clearly define the conditions under which classified material may be removed from the activity (see the DOD ISPR, paragraphs 8-100a and 8-200 for limitations on the hand-carrying of classified materials when in a travel status).

§ 850.74 Care during working hours, use of cover sheets.

A separate cover sheet may be used, if desired. AF Form 144, Top Secret Access Record and Cover Sheet, and AF Form 144a, Cover Sheet for Classified Information, are available for use.

§ 850.75 Care during working hours, plastic covers.

Plastic protective covers for documents are subject to image transfer. All personnel should be alert to this phenomenon, and should routinely examine covers for image transfer each time they are removed from classified documents.

§ 850.76 Care after working hours.

Commanders and office chiefs may delegate area inspections (security checks) to appropriately cleared responsible personnel.

(a) Containers should be locked by the person to whom the container is assigned and checked by another individual. When another person is not reasonably available the person locking the container will also check it and record both actions on AF Form 301.

(b) Checks of bookcases and the interiors of desks should be made periodically.

(c) A record of each inspection which verifies that each storage facility has been properly secured is made on AF Form 301, Security Container Check Record, and AF Form 302, Room or Area Security Inspection Record. Keep these records until superseding records are initiated, and then destroy them as outlined in AFM 12-50, Disposition of Air Force Documentation.

§ 850.77 Emergency destruction.

Emergency plans shall provide for emergency destruction to preclude capture of classified material in those areas where the commander determines such is required.

(a) This determination shall be based on an overall common sense evaluation of the following factors:

(1) Level and sensitivity of classified material held by the activity.

(2) Proximity of land-based commands to Communist controlled countries or potentially hostile forces.

(3) Flight schedules or unit deployment near Communist controlled countries or in the proximity of potentially hostile forces.

(4) Size and armament of land-based commands.

(5) Sensitivity of operational assignment (contingency planning should also be considered).

(6) Potential for aggressive action of hostile forces.

(b) When preparing emergency destruction plans, consider the following:

(1) Reducing the amount of classified material held by a command shall be the initial step toward planning for emergency destruction.

(2) Along with destroying or returning unneeded classified material, consider storage of less frequently used classified material at more secure locations in the same geographical area.

(3) Of the classified material which must be retained at a vulnerable site, as much as possible should be transferred to a medium more easily destroyed than paper documents (that is, microfilm, water soluble paper, etc.), or in the case of equipment, ex-

changed for similar equipment with a built-in destruction capability.

(4) In the plan, emphasis shall be placed on the priorities for destruction, designation of personnel responsible for destruction and the designation of places and methods of destruction.

(5) The plan shall provide authorization for the senior individual present in an assigned space containing classified material to deviate from established plans when circumstances warrant.

(6) The importance of beginning destruction sufficiently early to preclude loss of material must be emphasized.

(c) The emergency destruction plan shall require that classified material holdings be assigned a priority for emergency destruction. Priorities shall be as follows:

(1) First Priority. All Top Secret material.

(2) Second Priority. All other special access material.

(3) Third Priority. All other Secret and Confidential material.

(d) In determining the method of destruction, any method specified for routine destruction of classified material or any other means of reasonably ensuring the complete destruction of the material may be used. Ideally, the destruction method shall provide for early attainment of a point at which the destruction process is irreversible. As a last resort, and where none of the methods previously mentioned can be employed, the use of other means (such as dousing the classified material with a flammable liquid and igniting it, garbage grinders, sewage treatment plants, boilers, etc.) should be considered.

(e) After a threat analysis has been developed to support the emergency destruction section of the emergency plan, it may be determined that some special equipment will be required to increase the command's capacity for emergency destruction and the speed with which it can be accomplished. When a requirement exists for equipment not in the GSA or DOD inventory, the requirement shall be made known to HQ USAF/SPIB with supporting details.

(f) In the event of emergency destruction, the facts surrounding the destruction shall be reported as soon as possible to HQ USAF/SPIB. The report shall also contain the best possible identification of classified material that may not have been destroyed.

(g) Drills shall be conducted periodically to ensure that personnel are familiar with the emergency plan. Such drills shall be used to evaluate the anticipated effectiveness and shall be the basis for improvements in planning and equipment use, as required.

§ 850.78 Emergency planning.

The perimeter guard force suggested by this paragraph shall be manned by personnel assigned to the affected unit or activity, rather than from security police forces who will be otherwise committed during emergency periods.

§ 850.79 Safeguarding EOD publications.

Nuclear weapon EOD publications known as "EOD Procedures," when located on foreign soil, must be stored in a US duty area that is manned 24 hours a day by US personnel, or in alarmed areas or containers where the alarm system is continuously monitored by US personnel. An assured document destruction capability must be provided to ensure that EOD procedures, if necessary, may be destroyed in a minimum of time.

Subpart G—Safeguarding Large Items of Classified Material

§ 850.80 General.

(a) When the size, bulk, or nature of an item of classified material precludes its storage in a security filing cabinet, vault, or secure storage room, the responsible commander shall determine the security measures required to provide comparable protection. The storage of such material in Restricted Areas (AFR 207-1) and Controlled Areas (AFR 125-37) is authorized and encouraged when the protection afforded is comparable to the standards prescribed here for the classification category involved.

(b) When an item of equipment (other than an aircraft) is classified because it contains one or more classi-

fied components, the security safeguards should be commensurate with the effort required to gain unauthorized access. For example, when it logically would require a measurable number of manhours to gain unauthorized access, a basis can be established for requiring guard checks at appropriate intervals.

§ 850.81 Safeguarding classified equipment on aircraft.

(a) Top Secret Material. When aircraft that have Top Secret equipment installed are designated Priority A and are protected in accordance with the applicable system security standards in AFR/AFM 207 series directives, no additional security force protection is required. Aircraft not designated security Priority A, but having Top Secret equipment installed, are kept under continuous surveillance by an individual or an intrusion detection alarm system. A two-man armed response team is maintained with an assured capability of responding within five minutes. Personnel used for surveillance and response duties must be US nationals and be the subject of a favorable ENTNAC or, if the material is exposed to view, a favorable BI.

(b) Secret or Confidential Equipment At USAF Bases. Aircraft with Secret or Confidential equipment installed are protected as follows:

(1) The standards prescribed for Top Secret material; or

(2) During normal operating periods personnel of the unit possessing the aircraft provide surveillance over the aircraft and, as practicable, the boundary of the restricted area.

(i) The owner-unit must manage the personnel work schedules so that the aircraft has continuous security coverage. As a minimum, at other times, a security police patrol makes periodic checks of the aircraft parking area.

(ii) Establish local procedures between the security force and the unit possessing the aircraft defining the daily change in security responsibility. As a minimum, a two-man security police patrol armed response to the aircraft with classified equipment installed.

(iii) If a regular SAT is not maintained a two-man law enforcement patrol is tasked to respond to alarms. Additional procedures may be implemented by the local commander as he considers necessary after taking into account these factors: Physical characteristics of the classified equipment (fixed or removable; accessibility; ease of observation): local security environment; availability of security support.

(c) Secret or Confidential Equipment At Non-USAF Bases Within the 50 United States:

(1) In normal situations the commander preplans to provide for security which meets the standards for USAF bases. Any exception to this policy must be approved at no lower than wing commander level. The wing commander is responsible for evaluating the necessity of the flight, the degree of security that can be provided, and the general security environment at the airport where the aircraft will be located.

(2) In the event of emergency landing, the aircraft commander must make every reasonable effort to provide full security for classified equipment. If possible, keep the aircraft under surveillance until security support can be obtained from the nearest USAF unit. However, the actions taken are a matter for decision by the aircraft commander.

(d) Secret or Confidential Material At Other Non-US Bases:

(1) The commander preplans to provide security which meets the standards for USAF bases. However, when US aircraft are deployed at foreign military air bases, the major commander may approve the use of guards of the host nation if:

(i) The classified equipment installed on the deployed aircraft cannot be removed and has been determined to be disclosable to the host nation (AFR 200-9). (Disclosure review under AFR 200-9 solely to satisfy the requirements of this paragraph is not within the spirit and intent of AFR 200-9);

(ii) It is not practicable to provide US surveillance or guards; and

(iii) Equipment which may be subject to compromise by visual access has been appropriately shrouded.

(2) When use of foreign national guards is necessary, the responsible

USAF commander should request that a standard of security be maintained comparable to that provided by USAF forces.

(3) In the event of emergency landing, paragraph (b)(2)(ii) of this section applies.

Subpart H—Compromise of Classified Information

§ 850.82 Policy.

An incident involving classified information in which there is a deviation from the requirements of this directive is termed a security incident. Security incidents fall within four categories:

(a) Compromise (as defined in DOD 5200.1-R, para 1-305).

(b) Possible Compromise—Incidents in which it is suspected that unauthorized personnel possibly had access to classified information will be termed "possible compromise."

(c) Inadvertent Disclosure—When the inquiry or investigation determines that the individual(s) who had access to classified information had been subject(s) of favorable personnel security investigations the incident may be considered an inadvertent disclosure.

(d) Administrative Security Deviation. If an act or omission in conflict with this or other security regulations does not result in compromise or an inadvertent disclosure or results in a decision that the possibility of compromise is remote, the incident is categorized as an administrative security deviation.

NOTE: Regardless of which of the four categories are finally applied, consideration must also be given to the applicability of para 13-400 of this regulation.

§ 850.83 Cryptographic information.

KAG ID is implemented in AF-KAG-IE. When CRYPTO designated material is compromised or compromise is suspected, it is reported to the organization COMSEC officer for the initiation of the actions required by AF-KAG-IE.

§ 850.84 Responsibility of discoverer.

Each person immediately protects all classified material which comes into his possession as a result of a security incident. He promptly places it under the safeguards of an established security system and reports the circumstances to his immediate supervisor, commander, or higher authority in the chain of command. He does not attempt to conduct any inquiry or investigation unless he is authorized to do so by this part or is directed to do so by competent authority.

§ 850.85 Preliminary inquiry.

A commander or supervisor who gains knowledge of a security incident is responsible for the initiation of a preliminary inquiry and the further actions required by this chapter. The inquiry should be expeditiously conducted by officers or equivalent grade civilian employees with demonstrated judgment and competence. No incident is officially termed a compromise, suspected compromise, inadvertent disclosure, or administrative security deviation until the completion of the inquiry. Repsonsibility for an inquiry into an incident involving classified material during transmission (other than by electronic means) or shipment is with the commander or chief who initiated the transmission or shipment. This principle does not apply when another activity under military control has been definitely identified as completely responsible for the incident.

§ 850.86 Preliminary inquiry, determining type of incident.

(a) In cases of inadvertent disclosure of classified defense information, the individuals who had access must be debriefed and warned against the consequence of further disclosure. If the debriefer determines that classified information has been passed to other persons whose trustworthiness cannot be determined or who cannot be debriefed, the incident is considered a compromise and a formal investigation is required. Assistance in conducting the debriefing may be requested by the most expeditious means from any

commander or other responsible official who can do it most economically.

(b) When the determination is made that an administrative security deviation has occurred, the immediate commander or chief of the activity immediately takes corrective action, including disciplinary action, if appropriate, and records the matter is accord with AFM 12-50. This action normally is based on the preliminary inquiry without further formal investigation.

(c) If an incident is categorized as an administrative security deviation on the grounds that the information was improperly classified, then it is necessary to: assure that the information is declassified by proper authority; and determine if the incident is subject to the classification abuse reporting requirements of Subpart N.

§ 850.87 Preliminary inquiry, reporting requirements.

USAF reporting requirements are contained in § 850.100 and the other provisions of this part (See § 850.84).

§ 850.88 Preliminary inquiry, notifications.

Based on the inquiry, commanders or other appropriate Air Force Officials take actions and make the notifications required by § 850.100. Notification will not be delayed to obtain unknown details. Furnish known data and submit the additional information required below when it becomes available. A request for AFOSI investigative assistance is not a notification to HQ USAF. Notifications shall include the following specifics:

(a) Description of the classified material which has been subjected to compromise. Include office or headquarters that originated the material, date, subject, classification, special markings, etc.

(b) Full identification of the person(s) and activities involved.

(c) When espionage or other deliberate compromise/suspected compromise is involved, include a brief summary of the persons background.

§ 850.89 Investigation, USAF detailed procedures for the investigation of compromise or suspected compromise.

The responsible commander or chief of the activity concerned is the appointing authority. The appointing authority takes the following actions and those required by § 850.100 as a result of the specific conditions disclosed by the inquiry:

(a) Promptly appoints an officer, or a civilian employee with demonstrated judgment and competence, or a Board of Officers, to conduct a formal investigation. Investigations conducted by an investigating officer are in accordance with AFR 120-3 and AFM 120-3. Investigations conducted by Boards of Officers shall be in accordance with AFR 11-1. In the interest of brevity and clarity, limit the investigation to individuals and factors necessary to determine the facts, findings, and recommendations pertinent to the case. If at any time during the investigation a determination is made that compromise is no longer suspected, there is no compromise, or the possibility of compromise is remote, the investigating official(s) immediately notify the appointing authority, who, if he concurs, closes the case and takes whatever corrective measures are required (administrative or punitive or both). The appointing authority notified that no compromise occurred, stating the circumstances on which the decision was based.

(b) Responsibility should be fixed on a person rather than a position or office. Where the source of compromise/suspected compromise can be traced only to a command or office, the identification of any derelictions under this regulation should be established when appropriate. Investigating officials should not include specific recommendations concerning disciplinary action in their reports of investigation. This policy does not abrogate the requirement that responsibility be fixed, nor preclude the citation of the basis for determining responsibility or of appropriate mitigating circumstances related to the incident.

(c) Personnel involved in the case normally are not permitted to absent themselves from their station by

reason of leave, temporary duty, or permanent change of station until the investigation is completed. However, when the appointing authority deems appropriate, a designated official may accept a sworn statement from a person subject to investigation (after proper warning pursuant to Article 31 UCMJ, or the 5th Amendment to the U.S. Constitution), in lieu of personal appearance.

(d) Other USAF commanders or activities requested to render assistance in expediting investigations must comply promptly. Replies normally are forwarded through command channels within five duty days following receipt of request for assistance.

(e) The completed report of investigation should be submitted to the appointing authority within 15 workdays after the date the investigating official or board of officers is appointed. If an unavoidable delay is encountered or anticipated, the appointing authority may authorize extensions. In such cases he notifies the final approving authority of his action and the reasons therefor.

§ 850.90 Investigation, special investigative requirements.

Under the conditions set forth below, the appointing authority refers security incidents to the AFOSI with a request for investigation. An AFOSI investigation does not substitute for a commander's investigation required by this paragraph, but becomes an integral part thereof by referral or as prescribed by Part 952 of this chapter.

(a) Cases which involve espionage and deliberate compromise described in DOD ISPR, para 6-107. The appointing authority refers to the AFOSI for investigation any other security incident which suggests willful intent, gross negligence, or any other incident which indicates that any person has intentionally and for an illicit purpose gained or attempted to gain access to classified national security information.

(b) Cases which are sufficiently complex to be beyond the appointing authority's capability or resources, and which come within the functions and responsibilities of the AFOSI.

§ 850.91 Investigation, modification of investigation and reporting requirements where incidents occur in hostile or politically denied areas.

When incidents which result in compromise or suspected compromise occur in hostile or politically denied areas and formal investigation is impractical, the responsible commander may waive investigation. He must notify the activities shown in § 850.100 of the results of the inquiry and include a statement in the notification that a determination has been made by him that a complete investigation is not practical. The notification must include:

(a) Identification of all classified material compromised or suspected of having been compromised, including headquarters of origin, subject, date, classification of the material, and other specifics.

(b) The date on which the incident occurred.

(c) A résumé of the circumstances contributing to the incident, including any actions, omissions, and security deficiencies of a personal, physical, and procedural nature.

(d) Any recommended action that should be taken by the OPR of the information or by higher headquarters to mitigate possible damages or to preclude further incidents.

§ 850.92 Responsibility of authority ordering investigation review.

On receipt of the report of investigation, the appointing authority reviews the report for adequacy and completeness. Use AFM 120-3, attachment 2, "Check List for Reviewing Officer," to insure that the report of investigation and other required actions have been accomplished properly.

§ 850.93 Responsibility of authority ordering investigation approval.

When the report is adequate and complete, the appointing authority indicates his approval, disapproval, or partial approval of the report, and implements the recommendations he considers appropriate. When the report is forwarded, a statement of evaluation is included in his review to indicate any area of security weakness,

exposed by the investigation, statement of evaluation is included in his authority. The DOD Industrial Security Regulation (DOD 5220.22R), as supplemented by AFR 205-4, requires specific procedures applicable to DOD contractors.

(a) Disciplinary Action. The appointing authority takes disciplinary action when appropriate. If he considers that personnel of another command or activity should be disciplined, based on the contents of the report of investigation, he forwards his recommendations with a copy of the report of investigation to the commander or other appropriate superior of the person(s) concerned. Disciplinary action may be administrative or judicial in nature. For initiation of disciplinary action against contractor employees see the DOD Industrial Security Regulation, (DOD 5220.22R). It is not the intent of this subpart that harsh administrative penalties or judicial actions be initiated against dedicated persons with records of good security practice who occasionally commit violations through simple human error. Action in such cases is discretionary with the appointing authority. This statement of policy does not apply to cases involving repeated violations, gross negligence, espionage, or other willful or deliberate breaches of security regulations or appropriate statutes.

(b) Declassification for Use as Evidence. When a decision is made to recommend prosecution of a person for criminal violation of Federal statutes, all classified information involved must be reviewed for declassification before use as evidence in criminal prosecution. Federal courts normally do not permit closed trials to safeguard classified information, and the Department of Justice usually does not consider prosecution unless the material used in evidence is unclassified. Similar declassification action should be considered before court-martial proceedings. Direct contact with the classification authority is authorized.

(c) Accountability for Lost Documents. Accountability for lost documents is not dropped until after approval of the investigation by the final reviewing authority within USAF. Classified material reported as lost and subsequently recovered is entered into the appropriate accountability system. Notations are made in accountability records. The investigation may be reopened by the appointing authority and followed through to its conclusion, if appropriate.

(d) Notification to the OPR. The appointing authority promptly notifies the OPR or office of origin of any facts, findings, or conclusions which may have a bearing on the originators action to mitigate the circumstances; otherwise, reports of investigation need not be forwarded to the originator of the classified material.

(e) Forwarding Reports of Investigation. The appointing authority forwards reports of investigation through channels to the major command. Incidents reported under § 850.100, rules 3 thru 10, are reviewed by HQ USAF/SPIB. Final review of all other cases is conducted at the lowest level of command that exercises general court-martial authority, unless the major command elects to conduct this review.

(1) Transmittal by Appointing Authorities. The appointing authority forwards the report to his immediate commander within 15 workdays after receipt.

(2) Review by Intermediate Commanders. Each intermediate commander through whom the report is submitted reviews the report and sends it to the higher echelon of command indicating review and comments within 15 workdays of receipt, or returns it to the appointing authority for other action.

(3) Review by Major Command Headquarters. When USAF review is required, major commanders forward the reports of investigation to HQ USAF within 15 workdays of receipt.

(4) If reports of investigation concern incidents committed in the Office of the Secretary of the Air Force or in HQ USAF, the 1143 ABS/SP conducts the review and takes appropriate followup action for the Secretary of the Air Force or the Chief of Staff, as appropriate. When the inquiry reveals that the incident has been categorized as an administrative security deviation or inadvertent disclosure without com-

promise, the incident is closed at directorate level unless it has been initially discovered or reported by the 1143 ABS/SP.

§ 850.94 Responsibility of originator, review by originator.

On receipt of notification that classified information has been compromised or subjected to compromise, the originator of the classified information verifies that all elements of the information involved were classified under his original classification authority. If he finds that some element of information was originated by another activity, he promptly relays the notification to the appropriate original classification authority. The originator promptly notifies the reporting activity of the current classification of the information or that the information is now unclassified.

§ 850.95 Responsibility of originator mitigating actions.

In addition to the review required by the DOD ISPR (para 2-313) and this paragraph, the originator considers further actions which would tend to nullify or inhibit hostile forces from exploiting the compromise. This is the most important consideration in any compromise case. Appropriate actions include but are not limited to changing, deleting, or substituting specific provisions of the classified plan or operation, or action which would tend to invalidate the accuracy of the compromised information. It is recognized that mitigating actions of this type are not always feasible. The decision to take mitigating action or accept the calculated risk is a matter of judgment on the part of the original classifying authority. The probability of actual compromise based on the reported circumstances is a key factor in this decision. Direct communication between the originator and the appointing authority is authorized and encouraged.

§ 850.96 Espionage and deliberate compromise.

When an Air Force official having responsibility for classified security information determines or suspects that classified information has been the object of espionage or deliberate compromise, he forwards a report to HQ USAF/IGZ by the most expeditious means possible. Notifications by commanders or other Air Force officials are not delayed for lack of full information. Followup reports with supplementary information are submitted as it becomes available. In no instance are initial notifications delayed more than 24 hours beyond the time that an Air Force official suspects espionage or other deliberate compromise.

§ 850.97 Unauthorized absentees.

This report is made to the AFOSI activity that services the command.

§ 850.98 Compromise of special access information.

For security policy and procedures for reporting the compromise/suspected compromise of classified information pertaining to special access programs, see the directive governing the safeguarding of that particular information. For example, Cryptographic AFKAG-IE, COMINT and Special Activities Office (SAO) information, USAF INTELS 201-1 and 201-4; SIOP, AFR 205-25.

§ 850.99 Violations of the Atomic Energy Act of 1954.

On receipt of a preliminary report indicating that Restricted Data material has been subjected to compromise and that a criminal violation of the Atomic Energy Act of 1954 may have occurred, the responsible authority promptly reports the facts to the AFOSI activity that services the command. The report must state the date and nature of the violation, and a description of the information and material involved. AFOSI notifies the nearest office of the Federal Bureau of Investigation in accordance with the Atomic Energy Act of 1954.

§ 850.100 Mandatory actions for conditions revealed by the initial inquiry.

Rule	If the commander's inquiry reveals that—	(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)
		Then the commander or other proper authority must—							
			Conduct debriefing	Take local action	Notify— OPR	Notify— SPIB [1]	Notify— AFOSI [2]	Notify— MAJCOM	Investigate
1	No compromise/suspected compromise occurred.			X					
2	Unauthorized disclosure was made to a trustworthy person (inadvertent disclosure).		X	X					
3	Espionage or other deliberate compromise of classified information is suspected or believed to have occurred.				X	X	X [3]	X	X
4	An unauthorized disclosure of restricted data or formerly restricted data was made to a foreign national or nation.					X	X	X	X
5	Restricted data or formerly restricted data is compromised or suspected of compromise.				X [4]	X		X	X
6	Restricted data or formerly restricted data is compromised or suspected of compromise and a criminal violation of the AEA of 1954 is probable.				X [4]	X	X [3]	X	X
7	Top secret information is compromised or is suspected of compromise.				X	X		X	X
8	The incident may be made public by news media.				X	X		X	X
9	The incident involves or affects or appears to involve or affect classified information compromised or suspected of compromise of an activity outside the DOD.					X		X	X
10	NATO, SEATO, and CENTO, confidential and above, or classified information of another nation is compromised or suspected of compromise.					X		X	X
11	U.S. secret or confidential, other than rules 3 through 9 above and the OPR involved is within the DOD.			X [6]	X		X	X [7]	X
12	The incident occurred in a hostile or politically denied area.				X	X [8]		X	
13	Special access information is involved				X	X [9]	X [9]	X	X

[1] HQ USAF/SPIB, Washington, D.C. 20314.
[2] AFOSI unit that services command or activity.
[3] For investigative assistance.
[4] Only if OPR is within DOD.
[5] Send copy to SAF/OI, Washington, D.C. 20330.
[6] Insofar as possible, incidents involving confidential material to be resolved at or below MAJCOM.
[7] Unless otherwise directed by major commander.
[8] Only as required by rules 3 through 10.
[9] HQ USAF/SPIB and AFOSI notification is not required when the incident involves compartmented intelligence.

Subpart I—Access, Dissemination, and Accountability

§ 850.101 Determination of trustworthiness.

See AFR 205-32, USAF Personnel Security Program.

§ 850.102 Continuous evaluation of eligibility.

See AFR 205-32.

§ 850.103 Administrative withdrawal of security clearance.

See AFR 205-32.

§ 850.104 Revocation of security clearance for cause.

See AFR 205-32.

§ 850.105 Access by persons outside the executive branch, Congress.

Refer all requests for classified information initiated by the Congress or its committees or members to the Secretary of the Air Force (Director of Legislative Liaison, SAFLL) in accordance with AFR 11-7, Air Force Relations with Congress.

§ 850.106 Access by persons outside the executive branch, representatives of General Accounting Office (GAO).

Procedures for disclosing classified information to GAO representatives are prescribed in AFR 11-8, Air Force Relations with General Accounting Office (GAO).

§ 850.107 Access by persons outside the executive branch, industrial, educational and commercial entities.

Persons and other legal entities may be authorized access to classified information if it is required in the negotiation or performance of a DOD contract, or if release is in connection with (a) an advanced planning briefing, (b) the Scientific and Technical Information Program, or (c) a basic research grant or the Long-Range Planning Program. See the DOD Industrial Security Regulation, (DOD 5220.22R) for additional procedures.

§ 850.108 Access by persons outside the executive branch, historical researchers.

Access to Top Secret information by historical researchers outside the Executive Branch is not authorized. (See § 850.111) All requests by persons outside the Executive Branch of the United States Government for access to classified information in connection with historical research projects are forwarded through channels to the Director of Information, Office of the Secretary of the Air Force, Wash DC 20330, for action. SAFOI is responsible for the administration of this program as follows:

(a) Request investigation of individuals for whom access is being considered, as prescribed in AFR 205-32.

(b) Determine trustworthiness of individuals for whom access is being considered in accordance with the standards and criteria outlined in AFR 205-32.

(c) Authorize or deny access requested based on above determinations.

(d) Prescribe locations, schedules, and circumstances in which research may be conducted.

(e) Prohibit removal of any classified material, including classified notes and manuscripts, from the US Government facility designated for the conduct or research.

(f) Establish specific arrangements for Air Force review of research notes and manuscripts.

(g) Forward manuscripts for review by Directorate for Security Review, Assistant Secretary of Defense (Public Affairs), if deemed necessary.

(h) Assure that classified information is not published in final historical research manuscripts or otherwise subjected to compromise.

§ 850.109 Access by persons outside the executive branch, former presidential appointees.

Access may be authorized by the Chief of Staff, HQ USAF, or higher authority.

§ 850.110 Access by persons outside the executive branch, foreign nationals, foreign governments, and international organizations, authority for disclosure.

The Assistant Chief of Staff, Intelligence, HQ USAF/INF, is responsible for developing, formulating, interpreting, and promulgating Air Force policy and procedures on disclosure matters consistent with the National Disclosure Policy. Pertinent instructions are contained in AFR 200-9, Disclosure of Classified Military Information to Foreign Government and International Organizations, which implements DODD 5230.11. No Air Force entity or person (military, civilian, or Air Force contractor) may disclose classified information to a foreign government, to an international organization, or to authorized representatives thereof,

90-112 O—82——23

unless specific authority to do so has been obtained from HQ USAF/CVAFI.

(a) When disclosure of classified information is authorized, the method of transmission is prescribed by this part and AFR 200-9 and the DOD Industrial Security Regulation (DOD 5220.22R).

(b) A signed AF Form 349, Receipt for Documents Released to Accredited Representatives of Foreign Nations, which incorporates the conditions of disclosure, is obtained from an authorized representative of the foreign government or international organization for all documents which are disclosed and which contain classified information.

(c) The disclosure of classified information to foreign nations or foreign organizations acting in a private (nongovernmental) capacity is not authorized.

(d) Requests from or proposals to disclose classified information to such individuals or organizations are sent through normal command channels to HQ USAF/CVAFI, Wash DC 20330, for action or disposition.

(e) When appropriate, HQ USAF/CVAFI initiates action so that the prospective recipient if officially sponsored by his government.

§ 850.111 Conditions governing access to official records for historical purpoces.

1. I will abide by the regulations for safeguarding classified information issued by the Federal agency to which this application is being made or regulations which otherwise have been made applicable to the conduct of my historical research by the aforesaid Federal agency.

2. I understand that any classified information which I receive affects the national defense of the United States.

3. I acknowledge my obligation to safeguard classified information to which I gain possession or knowledge as a result of my access to files of any Federal agency.

4. I agree not to reveal to any person or agency any classified information obtained as a result of this access except as specifically authorized in writing by the Federal agency which approved my access, and I further agree that I shall not use the information for purposes other than that set forth in my application.

5. I agree to submit my research notes for security review prior to their removal from the specific area assigned me for research. I further agree to submit my manuscript, if required, for security review prior to its publication or presentation. In each of these reviews, I agree to abide by the decisions to safeguard official information in the interests of the defense of the United States, including the retention or deletion of any parts of such notes and manuscript whenever any Federal agency concerned deems such retention or deletion necessary.

6. I understand that failure to abide by conditions in this statement will constitute sufficient cause for canceling my access to classified information and for denying me any future access, and may subject me to criminal provisions of Federal Law as referred to in 7 below.

7. I am aware that the provisions of Title 18, U.S. Code, "Crimes and Criminal Procedures" and of the "Internal Security Act of 1950", as amended (Title 50, U.S. Code), prescribe, under certain circumstances, criminal penalties for the unauthorized disclosure of information respecting the national defense and for loss, destruction or compromise of such information.

This statement is made to the United States Government to enable it to exercise its responsibility for the protection of information affecting the national defense. I understand that any material false statement which I make knowingly and willfully will subject me to the penalties of Title 18 U.S. Code Section 1001. (To be signed, dated, and witnessed)

§ 850.112 International traffic in arms.

(a) Regulations governing international traffic in arms are administered by the Department of State. However, the release of Air Force, Army, or Navy classified materiel for foreign sale or manufacture is not permitted without appropriate interdepartmental coordination.

(b) Requests for export licenses involving technical information related thereto and designated as arms, ammunition, or implements of war on the US Munitions List, which are received in the Air Force for review, are referred to HQ USAF/LGF, Wash DC 20330, for processing (See AFR 400-43, Munitions Control Procedures for US Munitions List Export License Applications for requests referred to the Department of Defense by the Department of State). HQ USAF/LGF also reviews proposals to release equipment and technical data under the military assistance programs referred to in AFR 400-2, Implementation, Execution, and Administration of the Military Assistance Programs, and AFR 400-10, Procedures in Support of the DOD Strategic Trade Control Program.

§ 850.113 Access by persons outside the executive branch, for litigation purposes.

Requests or subpoenas for the appearance of witnesses before civil tribunals or for classified information to be used in connection with litigation are governed by Part 840 of this chapter.

§ 850.114 Emergency situations.

The authority contained in this paragraph is not exercised when time or circumstances permit the routine clearance of persons to whom access is to be granted. However, in a compelling emergency, access may be granted on the basis of judgment of the recipient's known reputation and ability to perform the services for which granted, and judgment of the releasing official that granting access will be in the interest of promoting the national security and will result in net advantages to the government. The authority to approve access to Top Secret material under this paragraph is vested in The Chief of Security Police, HQ USAF, or higher authority. Telephonic or message requests are routed to HQ USAF/SPIB. The authority to approve access to Secret and Confidential material originated in the Air Force is delegated to the officials listed in Annex A of the DOD ISPR as Top Secret Original Classification Authorities. Release authorities secure concurrence of the Air Force office of origin before release in each instance.

§ 850.115 Access by visitors (other than foreign nationals) to Air Force installations and activities.

This paragraph applies to the approval and control of visits to Air Force installations and activities when access (by the visitor) to classified information is or might be involved. It does not apply to those on duty or employed at the installation, or students detailed to attend a course of study or training at an installation; those ordered by higher authority to perform duty at the installation or activity; or those who are visiting at the request, invitation, or direction of the installation or activity commander concerned.

(a) In any visit involving access to classified information, all requirements of this chapter must be fulfilled before the information is disseminated. If a visitor is to be given physical custody of classified material, all accountability and transmission requirements of this part must be fulfilled.

(1) Responsibility. The commander is the local representative of the Department of the Air Force regarding the admission of visitors to his installation. If conditions make the admission of a visitor inadvisable, the commander postpones the visit and promptly verifies the validity of the requested visit.

(2) Restrictions On Movement Of Visitors. To protect classified information, the commander must restrict the movement of visitors entering his installation.

(b) Requests for permission to visit an installation or activity should be referred to the commander (or his designee) for approval or disapproval. All such requests must be submitted in writing, as follows:

(1) Visits By DOD Contractor Personnel. Requests for visit approval are prepared by DOD contractors and their personnel in accordance with the DOD Industrial Security Manual (DOD 5220.22M) and processed in the Air Force according to the DOD Industrial Security Regulation (DOD

5220.22R) as supplemented by AFR 205-4.

(2) Visits By Other Personnel. Request for the approval of a visit involving access to classified information must be submitted early enough to allow time for consideration, decision, and reply by the approving authority. Requests include the following information, as applicable:

(i) Name in full, grade, title, position.

(ii) Nationality of visitor.

(iii) Current residence or military assignment.

(iv) Employer or sponsor.

(v) Name and location of installation or activity to be visited.

(vi) Date, time, and duration of visit.

(vii) Purpose of visit, in detail.

(viii) Level of access authorized, and authority for access to Critical Nuclear Weapon Design Information (CNWDI) or other special access program, if such access is required.

§ 850.116 Access by immigrant alien personnel.

Air Force military personnel and civilian employees who are immigrant aliens may be granted security clearances only to the Secret level. Access to Secret CRYPTO and to information defined in AFR 205-19, Controlling the Dissemination and Use of Intelligence and Intelligence Information Produced by Members of the Intelligence Community, is prohibited.

§ 850.117 Policy, general.

Classified material in Air Force custody may be disseminated to persons or entities within the Executive Branch of Government whose official duties or functions require access in the interest of national security subject to limitations imposed by the originator and within the constraints by DOD ISPR, paras 7-100, 7-101, and 7-103. In all such cases, the following rules apply:

(a) Before approving a release of classified information, the releasing official must verify the identity of the recipient and determine that in his official capacity he has a valid, verifiable "need-to-know."

(1) The fact that an individual has a security clearance and a valid requirement for access to information concerning some aspects of a plan or project, does not mean that he needs or should be given access to all classified information related to that plan or project.

(2) Commanders, office chiefs, and other supervisory personnel should so organize their offices and functions as to limit the need for their subordinates to have access to broad areas of classified information.

(b) Do not release classified information for private use (personnel or commercial) or for use as background material. Any person who requests classified information for such use is considered a "private individual." His request will not be approved even though he may have been partly or solely responsible for production of the information. This rule applies to requests from military personnel on active duty or in retired status, members of the Reserve Forces, and civilian officials, as well as persons outside the Executive Branch. (See DOD ISPR, para 7-106f for exceptions.)

(c) Top Secret Information. Each commander, office chief, and other supervisor concerned, develops and implements special measures to limit severely the dissemination of Top Secret information. No dissemination or disclosure of Top Secret information is made or authorized by any person without determining beforehand that it is absolutely necessary for the recipient to know or possess the information. The number of persons who work on Top Secret material must be kept to an absolute minimum.

(d) Warning as to Classification. When classified information is discussed with other persons, they must be informed of its classification. The following additional rules also apply:

(1) When Restricted Data (or other information requiring specific control measures under law or regulation) is discussed, the recipient is informed of the applicable special requirements.

(2) When classified information is discussed with persons other than members of an agency of the Executive Branch, they are informed (warned) that (i) the information affects the national security of the United States within the meaning of

the Espionage Laws, (ii) its transmission or revelation in any manner to an unauthorized person is prohibited by law, and (iii) it must be safeguarded according to its assigned classification under EO 11652.

(e) Individual Activities. Military and civilian personnel shall not include classified information in any personal or commercial article, presentation, thesis, book, or other product written for commercial publication or public distribution.

(f) Service Periodicals. Commanders are responsible for making sure that service magazines, journals, and newspapers published under this supervision or jurisdiction do not contain classified information.

§ 850.118 Disclosure authority.

(a) Controls and Limitations. Each commander, and each chief of a staff office, must establish detailed procedures concerning dissemination of classified information within the organization under his jurisdiction.

(b) To Air Force, DOD, and Interdepartmental Activities. The commander or chief of the originating headquarters or unit or his designee, or higher authority in the same chain of command, may disseminate or approve the dissemination of classified information and material to: (1) Subordinate echelons of his own command or organization, (2) personnel under his jurisdiction, (3) other offices or activities of the Air Force, (4) other personnel, activities, and agencies of DOD, and (5) officially constituted interdepartmental committees with Air Force membership.

(c) To Other US Government Personnel and Agencies. Unless otherwise provided in this part, the officials designated in paragraph (b) of this section also are authorized to make or to approve dissemination to other departments, agencies, branches, and personnel of the Executive Branch of the Government. Each such release is made through the normal channels of communication established between the Air Force and the department or agency concerned, and the release is reviewed for propriety and desirability at each intervening Air Force element.

(d) To Reserve Forces Personnel. Members of the Air Reserve (AFRES) and the Air National Guard (ANG) who are on extended active duty have access to classified information on the same basis as members of the Regular Air Force. Although Reserve components' personnel not on extended active duty generally will not need such access, it may be granted to those who have been determined to be trustworthy under the following conditions.

(1) Confidential and Secret. Confidential and Secret information may be disclosed only to persons who are participating in active or inactive duty training, and who must have it to perform their officially assigned duties.

(2) Top Secret. Normally, Top Secret information is not used in Reserve components' training programs, nor are AFRES or ANG personnel to be given access to such information. However, Top Secret information may be disclosed to an individual member of the AFRES or ANG if:

(i) He is on a short or special tour of active duty and it is essential for the performance of his officially assigned duties; or

(ii) He has been specifically authorized by the major commander concerned to have such access in an inactive duty training status, and it is essential for the performance of his officially assigned duties as a member of a Training Category A unit or as an augmentee in an Air Force Wartime Augmentation Authorization position. This authority must not be redelegated.

§ 850.119 Intelligence material.

There are special restrictions on the dissemination of classified intelligence information to contractors or elsewhere outside the DOD. These restrictions, and the approving authorities for making such dissemination, are contained in Defense Intelligence Agency Instruction 50-4, a copy of which is available in HQ USAF/IN (AFIS/INSA) or in the intelligence office of each major command.

§ 850.120 Restricted data and formerly restricted data, dissemination of restricted data within DOD.

Restricted Data is disseminated within DOD on the same basis as other classified information; that is, the recipient must have need-to-know, and must have been granted a DOD security clearance of appropriate level. (However, see § 850.124 for limitations applying to Critical Nuclear Weapon Design Information.)

§ 850.121 Restricted data and formerly restricted data, dissemination of restricted data between Air Force and National Aeronautics and Space Administration (NASA).

(a) Air Force personnel are authorized to receive Restricted Data from NASA, provided they have a need-to-know and have been granted appropriate access authorization in accordance with AFRs 205–4 or 205–32.

(b) Requests to NASA for Restricted Data are transmitted, orally or in writing, to the NASA custodian of the information, together with assurance that the above requirements are fulfilled. Such requests need not be made or approved by a "certifying official," as defined in § 850.122(c).

(c) Air Force personnel are authorized to disseminate Restricted Data pertaining to aeronautical and space activities to NASA personnel provided:

(1) The recipient has been identified;

(2) It has been ascertained that the recipient has been granted an appropriate NASA clearance, or in the case of NASA contractors, an appropriate NASA or DOD clearance; and

(3) Assurance is obtained, either orally or in writing, that the recipient has need-to-know for performance of his official duties.

(d) Restricted Data that does not pertain to aeronautical or space activities is disseminated to NASA personnel only in accordance with para 7-204c1 below.

§ 850.122 Restricted data and formerly restricted data, dissemination of restricted data between Air Force and ERDA or Federal agency other than NASA.

(a) Dissemination. Air Force personnel are authorized to disseminate Restricted Data to Energy Research and Development Administration (ERDA), and the Nuclear Regulatory Commission (NRC) personnel or to ERDA/NRC cleared personnel of Federal agencies other than NASA, provided the recipient is identified and it is ascertained that he has ERDA/NRC granted clearance of appropriate level. ERDA/NRC clearances equate with DOD clearances as follows:

DOD	*ERDA or NRC*
Confidential	L
Secret	Q
Top Secret	Q. Specifically annotated to show TS authorization.

(b) Receipt. Air Force personnel are authorized to receive Restricted Data from ERDA or Federal agencies other than NASA provided the recipient has need-to-know and appropriate access authorization per AFR 205–32, and provided further that the foregoing is certified by an official designated specifically for this purpose per paragraph (c) of this section.

(c) Certifying Officials. Pursuant to an agreement between DOD and ERDA, certain officials are designated, by position titles, to certify that employees under their jurisdiction have the appropriate security clearance for and the need-to-know Restricted Data in possession of ERDA or Federal agencies other than NASA. The Secretary of the Air Force has designated the officials listed in § 850.128 to perform these functions.

(1) Air Force certifying officials may authorize subordinate commanders or other officials under their jurisdiction to exercise their certifying authority; certifications in such cases, however, must identify (by position title) the certifying official for whom the designee is acting and must be signed "for" the certifying official.

(2) Requests for additional designations as certifying official, and prompt notification of desired deletions or organizational changes affecting the list, are directed to HQ USAF/SPIB for referral to the Secretary of the Air Force.

(d) Requesting Visit or Access Approval. Requests for approval of access

to Restricted Data in possession of ERDA or Federal agency other than NASA, including approval of visits that would involve such access are processed as follows:

(1) General—Initiating Requests. For Air Force personnel, AEC Form 277, Request for Visit or Access Approval, is initiated by the activity or official desiring the information or visit. It is forwarded to the appropriate Air Force certifying official or his designee, and sent to the ERDA activity authorized to approve the request (see paragraph (d)(2) through (6) of this section).

(i) When practicable, the request is initiated in time to reach the approving ERDA official at least 10 calendar days before the proposed date on which the visit or access is planned.

(ii) In an emergency, or when required by military exigencies, a request may be sent to the certifying official by electrically transmitted message, and that official may make an oral request for approval by the ERDA authority. (However, such a request must be followed by the formal written request prescribed above.)

(iii) Instructions on the preparation of AEC Form 277 are given in § 850.127. Forward the form to the Air Force certifying official in five copies, and to the ERDA approving official in four copies.

(2) Weapons Programs and AEC Weapons Laboratories. For access, or a visit involving access, to Restricted Data pertaining to nuclear weapons programs, send requests directly from the certifying official to the Manager of the ERDA Albuquerque Operations Office or the ERDA San Francisco Operations Office, as appropriate.

(i) The initiation of such request is limited to Air Force activities which are performing work, pursuant to a formal written agreement with, or for, ERDA agencies under the jurisdiction of these ERDA operations offices, or specifically authorized to make direct requests to the ERDA operations offices for particular subjects of mutual interest within the weapons program.

(ii) When visits are planned for a meeting or discussion with personnel at an ERDA weapons laboratory or other activity, the time, subject matter, and other details of the meeting or discussion should be coordinated with appropriate personnel before AEC Form 277 is initiated. If recurring visits have been authorized according to paragraph (d)(7) of this section, similar arrangements should be made before each visit.

(3) Army Reactor Program. Send Requests for access, or a visit involving access, to Restricted Data pertaining to the Army Nuclear Power Reactors directly from the certifying official to the Director, US Army Engineer Reactors Group, Fort Belvoir, Virginia.

(4) Naval Reactors Program. For access, or a visit involving access, to Restricted Data pertaining to the Naval Reactors Program, send requests directly from the certifying official to the Director, Division of Naval Reactors, ERDA, Washington, D.C.

(5) Other ERDA Programs and Information. Requests for access, or for approval of a visit involving access, to Restricted Data pertaining to subjects or programs other than those described in paragraphs (d) (2) through (4) of this section, or for access to Restricted Data for which a direct access arrangement has not specifically been authorized by ERDA, are sent directly from the certifying official to the ERDA Washington Division having primary responsibility for the subject matter involved.

(6) Federal Agencies Other Than ERDA or NASA. Request for access, or for approval of a visit which would involve access, to Restricted Data in the custody of a Federal department or agency other than ERDA or NASA are sent by the certifying official through normal communications channels to the department or agency concerned.

(7) Recurring Visits. To obtain ERDA approval for recurring visits to specified ERDA facilities without obtaining separate approval for each visit, specify inclusive dates during which the access will be required. Requests may be made for periods of up to 12 months, or longer if local ERDA regulations permit. When the individual for whom recurring access is authorized is reassigned or is no longer required to have such access, the com-

mander shall forward a request to ERDA to terminate the arrangement.

(8) Visits by Air Force Contractors. Visits by Air Force contractors or their employees that would involve access to Restricted Data in the custody or under the jurisdiction of ERDA or its contractors, are processed in accordance with AFR 205-4 and this subpart. In this case, the administrative contracting officer (ACO) responsible for administering the contract under which access is required, also is responsible for:

(i) Furnishing the Air Force contractor with the necessary Forms (AEC Form 277) and with the instructions on their preparation;

(ii) Determining whether the fulfillment of the contract requires access to Restricted Data as proposed; and

(iii) Forwarding the request form to the appropriate Air Force certifying official, together with justifying information, for signature and submission to the ERDA approving authority.

§ 850.123 Restricted data and formerly restricted data, foreign disclosure.

Formerly Restricted Data to any foreign nation or international pact organization, or to a representative thereof, is prohibited except in accordance with agreements for cooperation entered into pursuant to section 123, Atomic Energy Act of 1954, as amended.

§ 850.124 Restricted data and formerly restricted data, additional controls over critical nuclear weapon design information.

(a) Only those individuals specifically authorized by a certifying official listed in § 850.128 are granted access to Critical Nuclear Weapon Design Information. Exercise of certification authority for this purpose may be in accordance with § 850.122(d)(8)(iii).

(b) Certifying officials shall certify only individuals who have a need-to-know, evaluated in the strictest sense, and a final security clearance of appropriate level granted in accordance with AFRs 205-4 or 205-32. US citizenship is required except as provided in paragraph (g) of this section.

(c) On being certified for access to Critical Nuclear Weapon Design Information an individual shall be briefed as to its importance and the procedural requirements for its control.

(d) Within their respective activities, certifying officials assure establishment and maintenance of procedures that meet the requirements pertaining to the control of access to Critical Nuclear Weapon Design Information specified in this part.

(e) In cases where visitors require access to Critical Nuclear Weapon Design Information in the possession of the Air Force, verification that access to such information is authorized is obtained from or furnished by the individual's parent organization.

(f) Under combat conditions, during or after a nuclear accident, or in other military exigencies, the commander of a numbered Air Force or a comparable or higher level organization may waive the requirements of this regulation pertaining to access to Critical Nuclear Weapon Design Information as warranted by circumstances.

(g) Immigrant aliens can be certified for access to Critical Nuclear Weapon Design Information only upon determination by the Secretary of Defense or his designee, based on recommendation of the Secretary of the Air Force, that granting such access would be in the best overall interests of the U.S. In such a case the immigrant alien must have a very unusual talent or skill that is essential to meet U.S. requirements and is not possessed to a comparable degree by an available U.S. citizen. Requests for approval for such access, with justifying information, are submitted by the responsible certifying official to HQ USAF/SPIB for referral to Secretary of the Air Force.

§ 850.125 Restraint on reproduction, designating officials.

Air Force commanders designate in writing the officers within their units or headquarters who may exercise authority for reproducing classified material. In HQ USAF, a branch chief or higher official may authorize the reproduction of material on which reproduction limitations have not been established. Top Secret and Secret documents that were originated by the ERDA may not be reproduced without

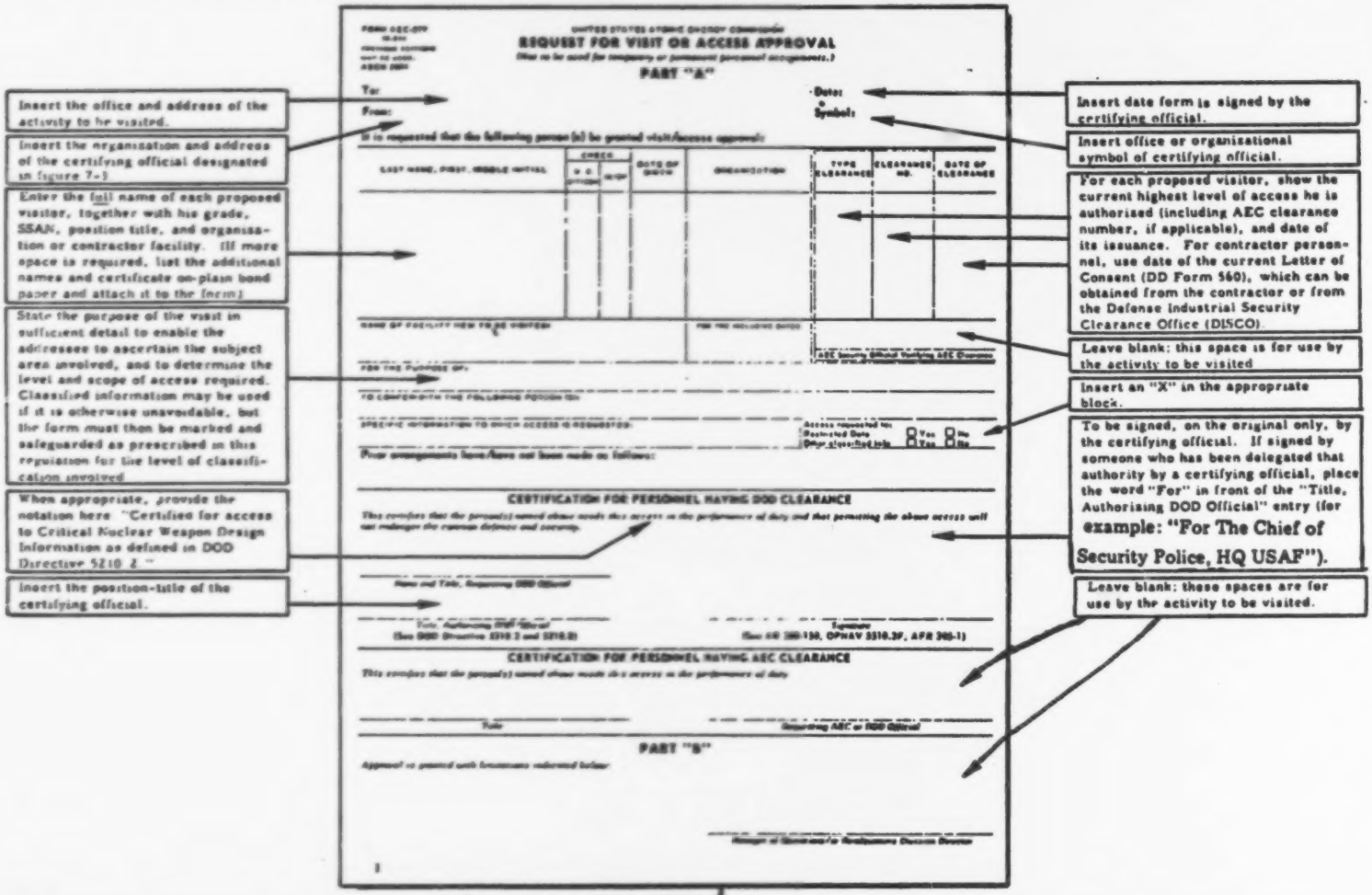
the permission of the originator; such permission may be obtained in writing or orally.

§ 850.126 Restraint on reproduction, designated equipment.

Rules for use of equipment on which classified material is to be reproduced are approved by the officials designated in § 850.125. The equipment must be located in areas under the constant surveillance of personnel charged with enforcing the rules against unauthorized use or otherwise protected by appropriate safeguards approved by the authorizing official.

See illustration for § 850.127.

§ 850.127 Instructions for preparing a request for visit or access approval (AEC Form 277).


REQUEST FOR VISIT OR ACCESS APPROVAL
PART "A"
To:
From:
Date:
Symbol:
CERTIFICATION FOR PERSONNEL HAVING DOD CLEARANCE
CERTIFICATION FOR PERSONNEL HAVING AEC CLEARANCE
PART "B"
Insert the office and address of the activity to be visited.
Insert the organization and address of the certifying official designated in figure 7-3
Enter the full name of each proposed visitor, together with his grade, SSAN, position title, and organization or contractor facility. (If more space is required, list the additional names and certificate on plain bond paper and attach it to the form.)
State the purpose of the visit in sufficient detail to enable the addressee to ascertain the subject area involved, and to determine the level and scope of access required. Classified information may be used if it is otherwise unavoidable, but the form must then be marked and safeguarded as prescribed in this regulation for the level of classification involved.
When appropriate, provide the notation here "Certified for access to Critical Nuclear Weapon Design Information as defined in DOD Directive 5210.2."
Insert the position-title of the certifying official.
Insert date form is signed by the certifying official.
Insert office or organizational symbol of certifying official.
For each proposed visitor, show the current highest level of access he is authorized (including AEC clearance number, if applicable), and date of its issuance. For contractor personnel, use date of the current Letter of Consent (DD Form 560), which can be obtained from the contractor or from the Defense Industrial Security Clearance Office (DISCO).
Leave blank: this space is for use by the activity to be visited
Insert an "X" in the appropriate block.
To be signed, on the original only, by the certifying official. If signed by someone who has been delegated that authority by a certifying official, place the word "For" in front of the "Title, Authorizing DOD Official" entry (for example: "For The Chief of Security Police, HQ USAF").
Leave blank: these spaces are for use by the activity to be visited.

§ 850.128 Air Force officials authorized to certify personnel for access to restricted data, including critical nuclear weapon design information.

Secretary of the Air Force, HQ USAF
Under Secretary of the Air Force, HQ USAF
Assistant Secretary for Manpower and Reserve Affairs, HQ USAF
Assistant Secretary of the Air Force (Financial Management), HQ USAF
Assistant Secretary of the Air Force (Installations and Logistics), HQ USAF
Assistant Secretary of the Air Force (Research and Development), HQ USAF
Administrative Assistant to the Secretary of the Air Force, HQ USAF
Director of Space Systems, USAF
Chief of Staff, USAF
Vice Chief of Staff, USAF
Assistant Vice Chief of Staff, USAF
Director of Administration, HQ USAF
Assistant Chief of Staff, Intelligence, HQ USAF
Director of Policy and Resource Management, Assistant Chief of Staff, Intelligence, HQ USAF
Director of Threat Applications, Assistant Chief of Staff, Intelligence, HQ USAF
Assistant Chief of Staff, Studies and Analysis, HQ USAF
Military Director, USAF Scientific Advisory Board, HQ USAF
The Surgeon General, HQ USAF
The Inspector General, HQ USAF; Deputy, The Inspector General, HQ USAF
The Chief of Security Police, HQ USAF
Deputy Inspector General for Inspection and Safety; Director of Aerospace Safety, The Inspector General, USAF; Director of Nuclear Safety, The Inspector General, USAF
Deputy Chief of Staff, Personnel, HQ USAF; Assistant Deputy Chief of Staff, Personnel, HQ USAF
Deputy Chief of Staff, Plans and Operations, HQ USAF; Assistant Deputy Chief of Staff, Plans and Operations, HQ USAF; Director of Doctrine, Concepts and Objectives, DCS/Plans and Operations, HQ USAF; Director of Operations, DCS/Plans and Operations, HQ USAF; Director of Plans, DCS/Plans and Operations, HQ USAF
Deputy Chief of Staff, Programs, and Resources, HQ USAF; Assistant Deputy Chief of Staff, Programs and Resources, HQ USAF; Director of Aerospace Programs, DCS/Programs and Resources, HQ USAF; Director of Civil Engineering, DCS/Programs and Resources, HQ USAF; Director of Command Control and Communications, DCS/Programs and Resources, HQ USAF; Director of Manpower and Organization, DCS/Programs and Resources, HQ USAF
Deputy Chief of Staff, Research and Development, HQ USAF; Assistant Deputy Chief of Staff, Research and Development, HQ USAF; Director of Development and Acquisition, DCS/Research and Development, HQ USAF; Director of Operational Requirements and Development Plans, DCS/Research and Development, HQ USAF; Director of Space, DCS/Research and Development, HQ USAF; Director of Reconnaissance and Electronic Warfare, DCS/Research and Development, HQ USAF
Deputy Chief of Staff, Systems and Logistics, HQ USAF; Assistant Deputy Chief of Staff, Systems and Logistics, HQ USAF; Director of Maintenance, Engineering and Supply, DCS/Systems and Logistics, HQ USAF; Director of Military Assistance and Sales, DCS/Systems and Logistics, HQ USAF; Director of Procurement Policy, DCS/Systems and Logistics, HQ USAF; Director of Logistics Plans and Programs, DCS/Systems and Logistics, HQ USAF; Director of Transportation, DCS/Systems and Logistics, HQ USAF
Comptroller of the Air Force, HQ USAF; Deputy Assistant, Comptroller for Accounting and Finance, HQ USAF; Director of Budget, Comptroller of the Air Force, HQ USAF; Director of Data Automation, Comptroller of the Air Force, HQ USAF
Commander, Aerospace Defense Command
Commander, Air Training Command
Commander, Air University; Deputy Chief of Staff for Education, Air University; Commandant, Air Force Institute of Technology
Commander, Alaskan Air Command
Commander, Air Force Communications Service
Commander in Chief, US Air Forces in Europe
Commander, Headquarters Command, USAF
Commander, Air Force Logistics Command; Commander, 2750 Air Base Wing (AFLC); Commander, Ogden Air Logistics Center; Commander, Oklahoma City Air Logistics Center; Commander, Sacramento Air Logistics Center; Commander, San Antonio Air Logistics Center; Commander, Warner Robins Air Logistics Center; Commander, Aerospace Guidance and Meteorology Center
Commander, Military Airlift Command; Commander, Aerospace Audio Visual Service
Commander in Chief, Pacific Air Forces

Commander, USAF Security Service
Commander, United States Air Forces Southern Command
Commander in Chief, Strategic Air Command
Commander, Air Force Systems Command; Commander, Aeronautical Systems Division; Commander, Aerospace Medical Division; Commander, Armament Development and Test Center; Commander, Arnold Engineering Development Center; Commander, AF Contract Management Division; Commander, Eastern Test Range; Commander, Electronic Systems Division; Commander, AF Flight Test Center; Commander, Foreign Technology Division; Commander, Rome Air Development Center; Commander, Space and Missile Systems Organization (SAMSO); Commander, AF Special Weapons Center
Commander, Tactical Air Command
Director, Air Force Technical Applications Center
Superintendent, United States Air Force Academy
Commander, Air Force Test and Evaluation Center

§ 850.129 Restraint on reproduction, clearing machines.

Rules will include assurance that copying machines have been cleared of classified information after classified documents have been reproduced. Belts, impression cylinders, rollers, rubber blankets, and other parts of press copying machines that carry images during production must be thoroughly cleaned by scrubbing with appropriate solvents immediately after use on classified production.

§ 850.130 Reproduction of top secret.

When the originator of a Top Secret document produces additional copies of a document after initial production, copy numbers for the reproduced material begin with the next consecutive number following the last copy number produced by the originator. When Top Secret material is reproduced by an office other than the originator, the reproduced material is marked to show the reproducing office, the number of copies reproduced and the authority for reproduction. "Reproduced (date) by (office symbol) by authority of (authorizing agency). Reproduced copy —— of —— copies." When the authority for reproduction is contained in the document, the office or origin is cited as the "authorizing agency" without further query. Reproduction of Top Secret messages as necessary to make required distribution is authorized without specific approval of the originator.

§ 850.131 Serial numbering of secret and confidential.

Serial numbering of Secret and Confidential documents is discouraged; however, when used, the system for the identification of reissues and reproductions prescribed above for Top Secret documents applies.

§ 850.132 Scientific and technical meetings, security measures for meetings.

Subparagraphs a through e outline Air Force policy and implement DOD Directive 5200.12, for approving or sponsoring meetings where the disclosure of classified security information is involved. They provide guidance to Air Force activities in determining whether to approve, sponsor, or cosponsor proposed meetings; and establish security measures for the conduct of and attendance at meetings held for this purpose.

§ 850.133 Scientific and technical meetings, terms explained.

(a) Meetings. Meetings at which classified information is disclosed, including conferences, seminars, symposia, exhibits, scientific and technical conventions and gatherings conducted by the Air Force and other DOD components, or by associations, societies, institutions, groups, Defense contractors, and other non-Defense activities.

(b) Communist-Controlled Countries. Communist countries are Albania, Bulgaria, Chinese Peoples Republic (Communist China) (including Tibet), Cuba, Czechoslovakia, Democratic Peoples Republic of Korea (North Korea), Democratic Republic of Vietnam (North Vietnam), German Democratic Republic (GDR) (East Germany, including the Soviet Sector of Berlin), Hungary, Mongolian Peoples Republic (Outer Mongolia), Poland, Rumania, Union of Soviet Socialist Republics (USSR) (including Estonia, Latvia, Lithuania, and all the other constituent republics), and Yugoslavia.

§ 850.134 Scientific and technical meetings, general policy.

(a) National Interest. Air Force commanders or other officials do not approve or sponsor any venture which is not in the best interest of national security.

(b) Advance Action. Air Force commanders or other officials do not approve or sponsor any meeting involving disclosure of classified information if adequate security measures have not been provided for in advance.

(c) Contractors. Air Force security responsibilities for sponsoring classified meetings, held by DOD contractors, in accordance with DOD Industrial Security Regulation must conform with this part.

(d) Attendance. Attendance at meetings conducted or sponsored by Air Force commanders or other officials is limited to those persons whose presence is considered necessary and who:

(1) Have been granted an access authorization equal to or higher than that of the information to be discussed; and;

(2) Have official duties requiring such access in the interest of promoting national security. A person's attendance at a meeting does not necessarily mean that he is or should be authorized access to all classified sessions or presentations. Each person should be scheduled and permitted to attend only those classified portions which involve the subject matter he requires in order to perform his official duties.

(e) Location of Meetings:

(1) Meetings at which Top Secret information is to be disclosed are held only at US Government installations or at cleared facilities of DOD contractors. However, when necessary for the effective accomplishment of essential functions, Air Force commanders and other officials may hold such meetings at another location provided they have been authorized to do so, in writing, by an Assistant Secretary of the Air Force. Send requests for authorizations through channels to the major staff office in HQ USAF with primary responsibility for the subject matter of the meeting. When an exception appears warranted, that office coordinates the matter with HQ USAF/SP before forwarding the proposal for secretarial approval. (As a matter of policy, such requests are disapproved unless there is overwhelming evidence that the need and exception clearly justifies risking possible loss of security.)

(2) Meetings at which information no higher than Confidential is to be disclosed or discussed may be held at other locations provided an adequate US Government installation or cleared DOD contractor facility is not available and it is specifically approved and authorized in writing at numbered Air Force level or higher.

(f) Attendance by Foreign Nationals:

(1) Foreign nationals of countries other than Communist countries may be approved for attendance at an Air Force sponsored meeting, in which classified information is to be disclosed, provided it is specifically authorized in writing by HQ USAF/CVAFI.

(2) Representatives of Communist countries are excluded from meetings with no unclassified sessions.

(3) Representatives of Communist countries are not authorized to attend unclassified sessions or unclassified portions of meetings comprising a mixture of classified and unclassified sessions, unless specifically and individually approved in writing on a name basis by the Secretary to the Air Force. Send requests for such action to HQ USAF/CVAFI.

(4) When the entire meeting is unclassified, prior approval by HQ USAF/CVAFI must be obtained to invite representatives of Communist countries to attend wholly unclassified meetings sponsored or conducted by Air Force commanders or other authorized officials.

§ 850.135 Scientific and technical meetings, guides for sponsorship.

(a) Acceptance of Sponsorship. Sponsorship of meetings is accepted only if the Department of the Air Force has a significant interest in the subject matter of the meeting, and only after a determination is made that:

(1) The use of conventional channels for dissemination of scientific, techni-

cal, and other information would not accomplish the purpose of the meeting.

(2) The conduct of the meeting is clearly consistent with the interests of national security.

(3) Adequate security measures have been developed and will be carried out.

(4) All persons selected and approved to attend the classified portions of these meetings have met the general policy for attendance prescribed above.

(b) Announcements and Invitations. Acceptance of sponsorship entails the review of all announcements and invitations for accuracy and to insure that:

(1) They are unclassified.

(2) All announcements and invitations indicate that the meeting has appropriate Air Force sponsorship to include identification of the sponsoring activity.

(3) Announcements of and invitations to unclassified sessions of meetings do not contain notices of classified sessions.

(4) Notices of classified sessions are not sent to Communist country personnel.

§ 850.136 Scientific and technical meetings, security responsibilities.

In addition to the security responsibilities inherent in the general policy statements above, the commander or other official conducting or sponsoring a meeting is charged with full security responsibility, including the following specific functions:

(a) Determining that the area selected for presentation of classified information is secure against unauthorized access to or illicit acquisition of the classified information involved.

(b) Insuring that adequate secure storage facilities are available, when required.

(c) Insuring that attendance at meetings at which classified information is discussed is limited to those persons whose names appear on the approved access list and then only on proper identification.

(d) Controlling and safeguarding any classified material furnished attendees and regaining custody of all classified material or obtaining receipts, as appropriate, at the end of each classified session of the meeting.

(e) Providing HQ USAF/CVAFI with the names, before issuance of actual invitation, of all representatives and nationals of Communist countries whom it is planned to invite to a meeting (including unclassified meeting). In addition to the names, providing the date of attendance, location of the meeting, subject matter to be discussed, and the titles and preliminary of final abstracts of scientific, technical, or other papers to be presented.

(f) Notifying each person who presents or discloses information at a meeting of any limitations that must be imposed for reasons of security, level of access authorization, requirement for access to the information, and planned attendance of foreign nations. The speaker is responsible for seeking such guidance and for keeping his disclosures within prescribed limits.

(g) Providing such other safeguards as may be deemed appropriate.

§ 850.137 Top Secret, control officers.

The security aspect of Top Secret information is paramount and takes precedence over operational considerations and administrative convenience. A Top Secret control system must be established, and particularly severe rules and procedures must be enforced for controlling and safeguarding such material.

(a) Organizational Concept. The Top Secret Control system may be organized in one of the following three ways:

(1) Method A. A single office may be designated to serve as the Top Secret control office for the entire headquarters, base, or unit. The TSCO receives, records, controls and dispatches all Top Secret material for all organizations and offices served by the account. His records must reflect the location of or disposition of each Top Secret document originated, received, possessed, and dispatched by all organizations and offices served by the account.

(2) Method B. A single office may be designated to serve as the primary Top Secret control office for a headquar-

ters, base, or unit with one or more subordinate Top Secret control offices designated to serve specified elements of the headquarters, base, or unit.

(i) Each account serves designated units or activities and is maintained as a separate account; however, all Top Secret material received from or dispatched to units or activities outside the headquarters, base, or unit which the Top Secret control system was established to serve, is routed through the primary Top Secret account.

(ii) Internal transactions between subordinate accounts are authorized. Such transactions need not be routed through the primary Top Secret account.

(iii) Although the TSCO of the primary account should coordinate and monitor activities of the entire control system, each TSCO is responsible to this appointing authority for the proper operation and maintenance of his account.

(3) Method C. Two or more primary Top Secret control offices (with subordinate control offices as described in (2) above, when needed) to act as independent Top Secret control offices for specified elements of the headquarters, base, or unit, may be designated.

(i) When this method is used, one of the primary TSCOs is designated HQ TSCO. In addition to his operations as a primary TSCO, he takes possession of incoming Top Secret material which is improperly or inadequately addressed and makes a permanent transfer of the material to the proper primary TSCO.

(ii) Within the organization, the HQ TSCO also monitors and coordinates the activities of the other primary TSCOs, though each is responsible to the appointing authority for proper operation and maintenance of his account.

(4) Top Secret Control by Telecommunications Centers. Top Secret Control Officers are appointed in each telecommunications center that receives, processes or dispatches Top Secret messages. These accounts are operated in accordance with all provisions of the DOD ISPR and this part with the following exceptions:

(i) AF Form 143 need not be prepared for copies of message traffic which are maintained on a transitory basis for 30 days. AF Forms 1014, Message Delivery Register, and 1022, Communications Center Message Register, or other authorized records of accountability may be used to record the receipt and disposition of messages.

(ii) Audit/Inventories are not required when account neither receives for action nor maintains, Top Secret documents other than message traffic destined for other addresses. These accounts are examined during regularly scheduled semiannual security and inspector general inspections.

(iii) The TSCO is given the authority to function as a primary TSCO for the purpose of dispatching Top Secret messages from the installation.

(b) Selection of Control System. The organizational pattern selected for use should be determined on the basis of requirements of the units or functions to be served. A schematic diagram of the optional organizational concepts for Top Secret Control Systems is reflected in § 850.139. The most suitable pattern varies with the volume of Top Secret material involved, the operational needs of the unit, and the administrative system most effective for the scope of operation of the unit. However, whatever organizational pattern is adopted, the control and safeguarding of Top Secret information requires conscientious attention to duty by well-informed persons, close supervision, and careful inspection under both the command inspection system and the designated primary control officer under § 850.141 referred to as the HQ TSCO. The chief of an office or commander to be served by the Top Secret control system determines the organizational method of the control system to be used and appoints in writing the primary TSCO, subordinate TSCOs (if needed), and one or more deputy TSCOs for each Top Secret control account established.

(c) Selection and Appointment of Top Secret Control Officers (TSCO). Select experienced, qualified personnel who have been granted an access authorization to Top Secret material based on a final personnel security clearance. Select only officers, noncommissioned officers, or civilian em-

ployees with demonstrated judgment and maturity to perform Top Secret Control functions. When practical, assign TSCO functions as an additional duty.

(d) TSCO Function. A TSCO is responsible for function and duties described below, plus others his commander or superiors may find it necessary to assign.

(1) Functions of the Primary TSCO. A Primary TSCO:

(i) Maintains a Top Secret register.

(ii) Receives, signs for, and dispatches all Top Secret material transmitted to or from the organizational elements he serves; and maintains receipt for the Top Secret material he dispatches or transfers.

(iii) Insures that persons who have custody of Top Secret material for which he is accountable are properly relieved of accountability before they depart on leave of absence or temporary duty of more than 45 days, or when they are transferred, reassigned, separated, retired, or otherwise change status with regard to the custody or possession of Top Secret material.

(iv) Maintains a roster of TSCOs, Deputies, and Agents to whom he regularly transfers documents in person, and of those personnel in activities he serves directly who are responsible for documents for which he is accountable.

(v) Conducts periodic checks within the activities he serves directly to assure the proper handling and safeguarding of Top Secret information.

(vi) Coordinates and monitors the operations of any subordinate control offices.

(2) Functions of the Subordinate TSCO. A Subordinate Top Secret Control Officer performs the functions listed above for elements he serves. However, the functions of a subordinate control office are limited to transactions within the primary account under which established. Transactions between subordinate accounts (under the same primary Top Secret account) are authorized. Such transactions need not be routed through the primary Top Secret account. When Top Secret material is transferred from the primary account to a subordinate account, or, from a subordinate account to the primary account, or, from one subordinate account to another subordinate account under the same primary account, the TSCO transferring the material drops accountability for it when the receipt is received and the TSCO receiving the material becomes accountable on receipting for it.

(3) Functions of TSCO Agents. A commander may authorize specially selected and individually designated airmen and civil service personnel to perform certain functions on behalf of the TSCO. However, he must first determine that the volume of Top Secret material being transmitted is great enough to affect adversely the performance of assigned functions without the use of agents. The designation of TSCO Agents does not relieve the TSCO of any of his responsibility for the control and protection of Top Secret material. TSCO Agents may be authorized to perform one or more of the following functions:

(i) Sign courier receipts and transfer of custody receipts for Top Secret material.

(ii) Courier Top Secret material transmitted within and between Department of Defense elements located within the same Air Force, Army, or Navy installation or within the same building if the elements are not located on such an installation.

(iii) Certify material being entered into the Armed Forces Courier System, and sign ARFCOS Form 1, Armed Forces Courier Receipt to Sender, on behalf of the TSCO.

(4) Designation and Instruction. The designation of a person to act as an agent of a TSCO must be written and includes: The identity of the designated agent; the particular circumstances in which he may act for the TSCO; and detailed instruction for performance of the functions which he may perform for the TSCO.

§ 850.138 Top Secret, accountability, AF Form 143, Top Secret Register.

(a) Purpose and Explanation. The purpose of the Top Secret Register is to provide a record which shows each Top Secret document (and copy), and each article of Top Secret material re-

ceived, originated, and/or dispatched by elements the TSCO serves; and the location/disposition of each such item. AF Form 143. Top Secret Register, is used for this purpose. The use of locally devised forms is prohibited unless an exception is specifically approved in writing by the major command concerned or, in HQ USAF 1143ABS/SP. Exceptions are authorized only when modification of the form is necessary to permit the use of mechanized accounting systems or other specialized or limited applications.

(b) Maintenance. Maintain AF Form 143 on a calendar year basis in a manner which permits easy determination of its completeness. Normally, the register should be maintained in a single file for each calendar year. In large accounts the TSCO may find it more practical to have separate registers for Top Secret messages or for other specialized types of documents. Assign each register page a consecutive control/page number to facilitate determination of completeness. The Top Secret Control/register page number must be entered on the document as well as on the register page. Control/register page numbers may be composed of any number of elements, so long as the final numbers constitute consecutive page numbers. Information such as calendar year, office symbol, and register breakout may be included in the control/register page number, for example, 75-DAAS-M20. This control/register page number would indicate the 1975 register maintained by DAAS, message register, page 20. Use continuation pages when the front and back of the form have been filled or, if desired, when changes are received for basic documents recorded on the initial page. Assign the same control/register page number to the continuation page with an alphabetical suffix A, B, C, etc. When the material is posted to the register, the entry remains active until the TSCO either makes final disposition of the material or recontrols it to a more current register entry. With either of these actions the entry becomes inactive. Final disposition of material consists of transfer to another TSCO, destruction, posting to or incorporation with another recorded document, or downgrading/declassification. A register page remains active as long as there are active entries on it. A page becomes inactive when all entries on it are inactive. In large accounts, particularly when only a few of the register pages have active entries, it is frequently practical to maintain an active and an inactive section of the register. Pages are placed in the inactive section of the register when all entries on the page have become inactive. These pages retain their original control/register page numbers to insure that completeness of the entire register, consisting of both the active and inactive sections, can be ascertained. Mark the last page of a register for each calendar year indicating that fact; for example, "This page (number ——) is the last page of the Top Secret Register, calendar year 19——.

(1) A register is active until each page has been made inactive. The length of time a register, for any year, remains active is determined by the TSCO responsible for the maintenance of the register; however, registers should be closed as soon as feasible to preclude maintaining more active registers than necessary. To close a register, transfer all active entries to the current year register, and close the active entries in the prior year register by a recontrolling remark showing the control/register page number of each item in the new register (§ 850.140, item 21). Copies of pages on which there are only active entries, may be placed in the register to be closed, and the original pages renumbered and placed in the new register. Place a recontrolling remark on both the original and copy pages showing the register page number from or to which the page was transferred (§ 850.140). When all entries on all pages of the register have been properly made inactive, the register becomes inactive.

(2) When the AF Form 143 is used as an internal receipt record for signature by a person in a specified element served by a primary or subordinate TSCO, include the fact that it is an internal transaction, so that audit/inventory team members will not mark an internal transaction as audited.

90-112 O—82——24

(3) When several copies of a Top Secret document are recorded on a page and there have been transactions pertaining to the various copies of the document, the TSCO may at any time draw a line across the register page just below the last entry and bring down all active items below the line. Internal transactions signed on the register must be resigned below the line. The audit/inventory team indicates with a single notation that all entries above the line have been audited. Subsequent audits are concerned only with entries below the line. Only the TSCO, deputy TSCO, or his agents may draw the line, and not an audit/inventory team.

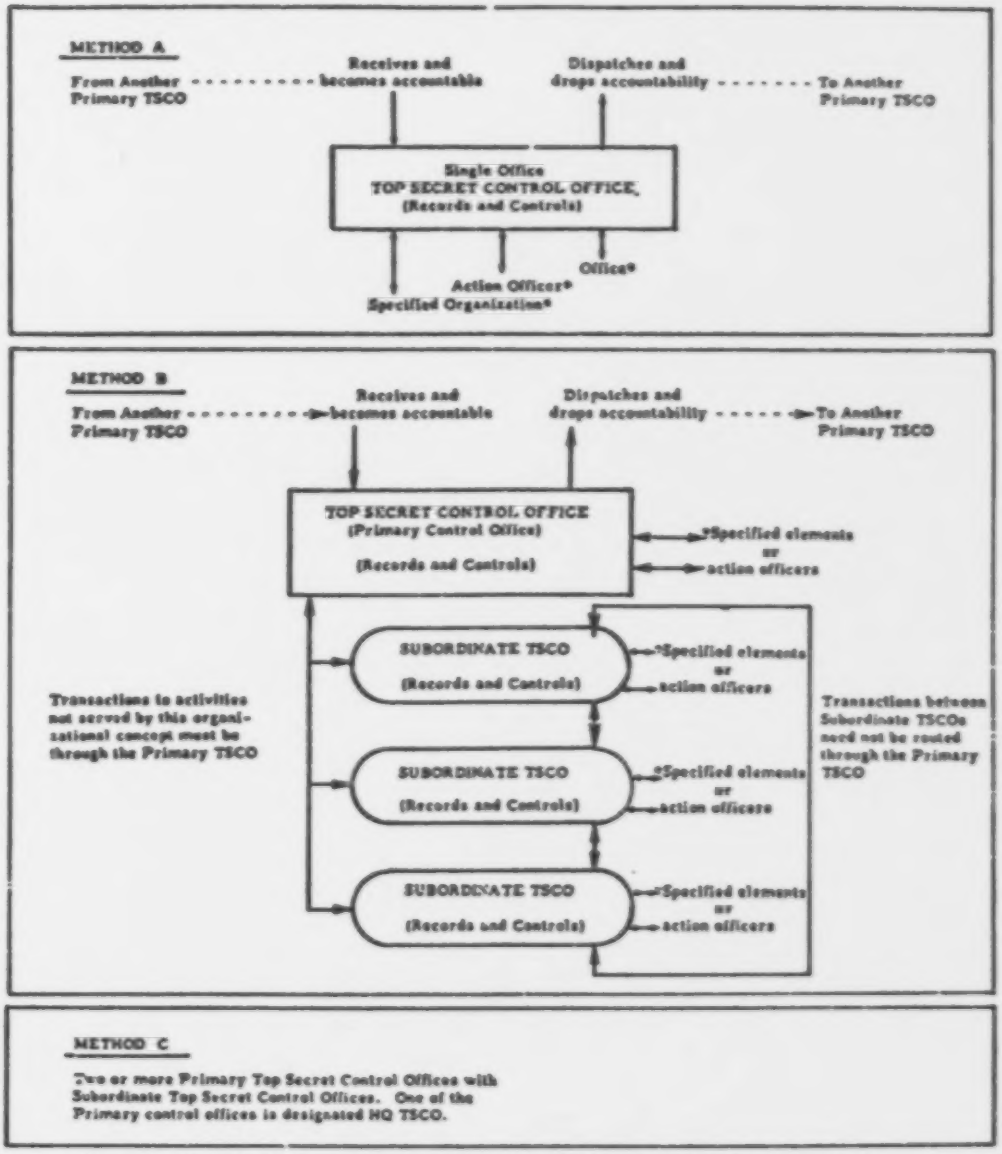
(c) Disposition of Top Secret Registers. Dispose of Top Secret Registers in accordance with AFM 12-50.

(d) AF Form 144, Top Secret Access Record and Cover Sheet:

(1) Requirement. Each person who has knowledge of, or who has had access to, an item of Top Secret information must be identifiable. When a Top Secret document is initially developed, the originator initiates a record identifying the Top Secret document concerned on which to identify by name, office, and date each person who is afforded access to Top Secret information contained in or revealed by the Top Secret document. The person in possession of the document is responsible for ensuring that the name of any person afforded access to the information contained in or revealed by the document is entered on the access record for the document. AF Form 144 is available for this purpose. The name need appear only once on the AF Form 144, regardless of the number of times the individual has access. The AF Form 144 is attached to and remains with the Top Secret document as long as the document remains within the same Top Secret control system. If the Top Secret document is destroyed, downgraded, or declassified, the access record is removed and filed by the Top Secret control officer who accomplishes the destruction or regrading. If the document is transferred outside a Top Secret control system the access record is removed and filed by the dispatching Primary Top Secret Control Officer. The receiving Primary Top Secret Control Officer, on receipt of the document, initiates a new access record on which to record access afforded to persons within his Top Secret control system. When more than one copy of a Top Secret document is being used separately within a Top Secret control system, an access record is attached to each copy so used. The access record is retained for two years beyond the date the Top Secret document is destroyed, transferred, downgraded, or declassified, after which time it may be destroyed, in accord with AFM 12-50.

(2) Alternate Procedure. In the interest of economy and efficiency, a commander may authorize the use of the following alternative procedure in lieu of paragraph (d)(1) of this section. Top Secret control offices, file rooms, communications and message centers, and printing and reproduction activities engaged in processing a large volume of Top Secret material need not require permanently assigned personnel to be recorded on AF Form 144, provided that entry to such areas is limited to assigned personnel, and such persons are readily identifiable as having had access on any given date.

§ 850.139 Top Secret control organizational concept.



*Documents released to these elements remain active on the Top Secret Control Office register and the TSCO remains responsible for control. Top Secret documents originated by elements served by a TSCO must be recorded with that TSCO.

§ 850.140 How to complete an AF Form 143.

Item	Enter
1	ARFCOS or other container number in which document was transmitted.
2	Organization and office address symbol of document originator.
3	Number assigned to document by originator.
4	Number of copies received.
5	Date register page is prepared.
6	Unclassified document description. Record type, subject, title, and date. Describe attachments fully, and include any copy numbers, and number of copies when different from basic document. When basic document is a letter of transmittal, indicate classification when attachments are withdrawn.
7	Copy numbers of Top Secret documents.
8	Organization or office to which copy is transferred (see note).
9	Date document is transferred (see note).
10	X when copy is transferred to an action individual or specified element served directly by the TSCO (see note).
11	Signature of action individual served directly by TSCO, or the TSCO, deputy, or agent to whom document is transferred. When it is not practical for receiving TSCO to sign on register, enter "See AF Form 310" (see note).
12	X in pencil when document is retained in TSCO custody.
13	File designation in pencil when document is retained in TSCO custody.
14	X when document is returned from action individual.
15	Date document is returned.
16	Signature of TSCO, deputy, or agent receiving document returned. This relieves the action individual of responsibility for the document. Action individual must observe this entry. If document is to be transferred, repeat items 7 through 10 as necessary in the next open section and enter "See section ——" in remarks.
17	X in appropriate box for action taken.
18	Date document is destroyed.
19	Signature and grade of destroying/certifying official.
20	Signature and grade of witnessing official.
21	"Posted" and entry/destruction cross-reference when document is a change or amendment; "recontrolled to ——" when document is recontrolled separately from all other active documents on the same register page, and any other information that would aid in control of the document. Do not check "returned" for partial returns.
22	Date of audit and initials of auditor.
23	Control/register page number of primary TSCO when document is transferred to a subordinate account.
24	Control/register page number within your account from/to which entries have been transferred when all active entries recorded on the page are recontrolled to a new page.
25	Alphabetical suffix of the next continuation register page, if one is used.
26	Consecutive control/register page number. To continue register pages, use the same number with an alphabetical suffix.

NOTE: Leave blank for documents retained in TSCO custody.

§ 850.141 Top Secret inventories.

A special audit and inventory (audit/inventory) is made on change of the control officer. Additional audit/inventories may be made at any time when directed by the TSCO appointing authority. The audit portion of the audit/inventory relates to registers and other records used for the control of Top Secret documents.

(a) Scope. An individual audit/inventory is conducted for each primary or subordinate Top Secret control account.

(b) Audit/Inventory Personnel. The audit/inventory is conducted by appropriately cleared personnel selected for their reliability, competence, and maturity. At least one member of each audit/inventory team should be familiar with Top Secret control proce-

dures. Neither the TSCO nor a deputy TSCO of the account undergoing audit may serve on the audit/inventory team. When an audit/inventory is to be conducted because of transfer or reassignment of the TSCO, the succeeding TSCO may conduct the audit/inventory assisted by additional personnel when necessary.

(c) Procedures. First, determine that the register is complete—that is, all pages are available and accounted for. The audit and inventory portions may be done separately or concurrently.

(1) The audit portion of the audit/inventory is concerned with verifying register entries which reflect that documents have been transferred to another account, recontrolled to a later register entry, downgraded/declassified, or destroyed. Verify, mark "audited," date, and initial each entry where there is:

(i) A receipt covering transfer of the document to another Top Secret Control account. (Normally, the tracing of documents from one account to another to verify receipts or other actions is not required.)

(ii) A recontrolled document.

(iii) An authorization for document downgrading or declassification.

(iv) A certificate of destruction.

(v) Certification that the document has been posted to or incorporated into another recorded document.

(2) Properly authenticated receipts, destruction certificates, or other such documents required to authenticate register entries are accepted without further verification in the absence of contra-indications. An entry marked "audited" and initialled is not reaudited. When an entry is marked "inventoried" or marked with any marking other than "audited," the team must determine the meaning of the entry and correct it. If appropriate, the entry should be remarked "audited," dated, and initialled. Register entries showing internal transactions are not marked "audited." Entries for documents being transferred to another account for which suspense receipts are held need not be marked "audited".

(3) The inventory portion of the audit/inventory consists of the actual sighting of each item for which entries on the register show the TSCO is still accountable, and an examination of all authorized Top Secret material possessed to make sure that all material on hand has been entered in the register. No remarks, such as "inventoried," are placed on the register. Temporary receipts held by a TSCO during transfer of a Top Secret document from his account to another are accepted for inventory purposes. Accountability may not be dropped by the dispatching TSCO until a signed receipt has been received from the intended recipient TSCO. Audit/inventory personnel should take special note of any temporary receipt held in the account for an extended time without followup action. Documents receipted for as internal transactions must be sighted.

(4) Audit/Inventory Reports:

(i) Audit/Inventory reports are prepared for the appointing authority of the TSCO on each audit/inventory performed. These reports include:

(*a*) Names and sample initials of audit/inventory personnel;

(*b*) The dates during which the audit/inventory was conducted;

(*c*) A listing of any Two Secret material reflected in the register as being the responsibility of the TSCO which could not be properly accounted for;

(*d*) A listing of any Top Secret material in possession of the TSCO or any elements served directly by him which had not been entered in the register;

(*e*) Any other discrepancies observed;

(*f*) Recommendations (if any);

(*g*) A statement that all Top Secret material was inventoried, and the fact that no discrepancies were noted if this is the case.

(ii) The appointing authority reviews the report, takes corrective action as necessary (including action under Subpart G when required), and files a copy of the report for reference during the next audit/inventory. AFM 12-50 authorizes destruction of these reports one year after the completion of the next audit/inventory. When possible, discrepancies noted should be resolved during the audit/inventory.

(5) Inventory of ERDA Top Secret Documents. Top Secret documents originated by the ERDA that are in the possession of the Air Force are inventoried semiannually, and a copy of

the inventory is furnished to ERDA. The regular annual inventory of Top Secret material is the basis for one of the inventories required by this paragraph. In the case of AEC-originated Top Secret documents released to Air Force contractors, the Air Force commander or office chief who has released the document also is responsible for the inventory and report on that document. He ascertains that the document is in the custody of the contractor at the time the inventory is made. If the contractor has the document, it must be included on the list sent to ERDA, and a notation added to show the contractor as the holder. As an alternate procedure, the releasing authority may arrange for the DOD contractor to send a list of all ERDA originated Top Secret documents, held by him in connection with a DOD or Air Force contract, directly to ERDA after coordinating with all other interested releasing authorities. Lists prepared in accord with either of the above procedures are forwarded directly to: Document and Information Security Branch, Division of Security, U.S. Energy Research and Development Administration, Wash DC 20545. Negative reports are not required.

(6) Special Audit Record. When a register contains inactive items only, the record of audit may consist of a single entry on the last page or on a separate page of plain bond paper attached to the last page of the register as follows: "in accordance with AFR 205-1, (identity account) Top Secret Register, pages ——through ——, for calendar year—— is audited effective ——," and certified by the audit team chief. When a register contains both active and inactive items, the record of audit may consist of a single entry on the last page or on a separate page of plain bond paper attached to the last page of the register as follows: "In accordance with AFR 205-1, (identify account) Top Secret Register, pages —— through —— for calendar year —— is audited effective ——, with the following page exceptions: Pages ——, ——," and certified by the audit/inventory team chief. Subsequent audit/inventories will be concerned only with excepted pages.

§ 850.142 Reproduction and retention.

See § 850.130.

§ 850.143 Top Secret, receipts.

Top Secret material is receipted between Top Secret Control Officers on AF Form 310, Document Record and Receipt. AF Form 143 is used whenever practicable for internal receipting or permanent receipting between primary accounts on the same installation.

§ 850.144 Top Secret, serial numbering.

Serial numbering of Secret and Confidential documents is discouraged; however, when used, the system for the identification of reissues and reproductions prescribed for Top Secret in § 850.130 apply.

§ 850.145 Secret.

The control system for Secret material is based on the limited use of receipts in transmitting documents between geographically separated units and in maintaining certificates of destruction. Active accountability records or logs that reflect a running inventory of classified documents are not required. (Those on hand, including the active accountability section of the AF Form 310 file, may be destroyed.) In lieu of maintaining an active accountability file, each activity that prepares or reproduces a Secret document must insure that the retained record copy reflects the identity of each activity that receives a copy of the document. When all addressees are not included in the address line, distribution list, records supporting a Secret publication or when secondary distribution is made (after reproduction), annotate the retained record copy to reflect complete distribution. Secret material held with HQ USAF/IN COMINT accredited areas must be handled, controlled and accounted for in accord with USAF INTEL 201-1. Receipts are required only as prescribed below.

§ 850.146 Secret receipting requirements.

Internal receipting within an Air Force activity is not required and is discouraged. However:

(a) Obtain a receipt for Secret material released or transmitted to an activity outside the US Air Force in accord with para 8-402b. Receipts are required for NATO, SEATO, and CENTO, IAW AFRs 205-43, 44 and 45.

(b) Obtain receipts for documents transmitted through a mail distribution system (for example, the US Postal Service, or base distribution system).

(c) AF Forms specified in § 850.177 are available for this purpose.

§ 850.147 Completion and disposition of AF Forms 310.

Use AF Form 310 to obtain a receipt for a Secret document or a Confidential document requiring a receipt. If the document requires a receipt, address the document to the office that will use it or act on it (action office), and include the correct office address symbol (AFM 10-6). Prepare the AF Form 310 as shown in the instructions in § 850.152. Enter the same address on the form that is used on the document (that is, to the action office, with the office address symbol). Under "container number" enter the registry or other container number (AFM 10-5) by which the document is ready for dispatch:

(a) Withdraw a copy of the AF Form 310 and place it in a suspense file, pending return of the signed receipt.

(1) If receipts have not been returned from the intended recipient within 20 days within the CONUS, or 30 days outside the CONUS, send a copy of the original receipt marked "Tracer-Original Not Received." (Include the registry or container number under which documents were dispatched.)

(2) If the intended recipient did not receive the container, begin tracer action through the administrative communications distribution system.

(i) If the postal system is used, the registry section of the administrative communications distribution center will assist in filing an inquiry for loss or rifling of mail.

(ii) If, as a result of these actions, the container is proven to be lost, or if there are other discrepancies that result in a document not being accounted for between sender and intended recipient, take action directed by Subpart G.

(b) If a suspense (followup) reply to the communication is required, use another copy of AF Form 310 in the manner prescribed by AFM 10-1, page 3-5, for AF Form 388.

(c) Forward all remaining copies of AF Form 310 with the document(s) to be dispatched.

(d) When dispatching a document to two or more addresses, enter "SEE DISTRIBUTION" in the "TO" element of the AF Form 310. Two line spaces below the document description annotate the distribution and number of copies. If there is not enough space on the front to accommodate the entire distribution and copy listing, continue on the reverse side.

§ 850.148 Processing incoming communications.

When you receive an accountable communication in a sealed container transmitted by a postal registry number or other container number:

(a) Inspect each sealed container for evidence of tampering, and determine that documents received are as described on the accompanying AF Form 310. If there are any discrepancies, report the facts immediately to the sender, and return an annotated and signed copy of the AF Form 310 to the sender.

(b) Remove the top copy of the accompanying AF Form 310, complete the receipt portion, and return it to the sender. (Before signing this top copy, remove it, so that the remaining copies can be used for further receipting, if required.)

(c) Withdraw and destroy remaining copies of the AF Form 310, unless further dissemination requires their subsequent use.

(d) Active accountability files are not required.

§ 850.149 How to file AF Form 310.

(a) Suspense Records. These are copies of AF Form 310 filed to assure the return of signed receipts or, in the case of "on-loan suspense," return of the document.

(1) Normal suspense. Arrange copies in the order which provides easiest ref-

erence. For example, copies might be arranged by date of dispatch, by container number, or by the date the signed receipt is expected to be returned. When the signed receipt is returned, place it in the inactive accountability file and destroy the suspense copy.

(2) On-loan suspense. File the receipt for a loaned document in a separate section of the suspense file. File it in the manner which will provide the easiest reference (generally this is by the date the document is expected to be returned.) Upon return of the document, withdraw the receipt from the "ON LOAN Suspense" and either: give it to the borrower in exchange for the document being returned; or refile it in the inactive accountability file if another receipt has been prepared by the borrower for you to sign.

(b) Inactive Accountability Records. These are signed copies of AF Form 310 acknowledging receipt of documents transferred and certification of documents destroyed.

(1) File the copies in the annual block by the year of the latest action (transfer, declassification, retirement, destruction, etc.); then, within the block, file individual copies in the order that provides the easiest reference. Generally, they should be filed chronologically by date of the document.

(2) Destroy the annual block after the retention period specified in AFM 12-50.

§ 850.150 Confidential.

Receipts are not ordinarily required for Confidential documents (reference § 850.176).

(a) Confidential documents originated or reproduced will reflect each recipient's functional address symbol on the file copy. Exceptions: If the distribution is shown on the document, or in the records prescribed for an established publications distribution system, you need not record the distribution on the record copy of the document.

(b) The notation required by (a) above on the record copies, or on the distribution records, of a Confidential document constitutes the control record. Do not use AF Form 310 or other special forms to control them.

(c) Copies of Confidential documents are to be filed as prescribed by AFM 12-20. Dispose of them as prescribed by AFM 12-50 and this part.

(d) Offices that coordinate, sign, print, reproduce, or route Confidential documents that are prepared and controlled by another office, will not keep file copies of the documents for the sole purpose of control.

§ 850.151 Receipt of classified material.

Procedures for the screening, segregation and distribution of incoming classified communications are contained in AFM 10-5. Procedures for receipt of classified material are contained in AFMs 75-1 and 75-2.

§ 850.152 Instructions for preparing the AF Form 310, document record and receipt.

DOCUMENT RECORD AND RECEIPT

FROM (Activity transferring documents) 12AF/LGX Bergstrom AFB TX 78743 1	DOCUMENT	DATE 2 3 Feb 75	CONTAINER NUMBER 3	CONTROL NUMBER 4	SUSPENSE DATE 5
		CLASSIFICATION SECRET 6	FILE DESIGNATION 7	DATE DISPATCHED	
TO TAC/DOX Langley AFB VA 23665 1	INTERNAL ROUTING	TO	DATE	TO	DATE
		1		3	
		2 8		4	

DESCRIPTION OF DOCUMENT(S) LIST (1) ORIGINATOR OF DOCUMENTS (if different from activity transferring documents). (2) TYPE (letter, message, plan, etc.) FOLLOWED BY ABBREVIATED CLASSIFICATION (3) UNCLASSIFIED SUBJECT OR TITLE (4) NUMBER OF COPIES AND COPY NUMBERS IF ANY (5) ATTACHMENTS FOLLOWED BY ABBREVIATED CLASSIFICATION (6) OTHER IDENTIFYING DATA CHANGES IN THE DESCRIPTION (additions, withdrawals, etc.) WILL BE SHOWN WITH THE DATE AND INITIALS OF INDIVIDUAL MAKING ENTRY

Ltr (U), Subj: Munitions Training, 3 cys
Atch 2, HQ USAF/DPT Ltr (S), Subj: Personnel Requirements (U),
9 23 Jan 75
Atch 4, HQ USAF/DPT Chart (S), Personnel Status (U), 23 Jan 75
Atch 5, HQ USAF/DPT Ltr (S), Subj: L of P at 4 TFW (C), 28 Jan 75

DOCUMENT RECEIPT (Recipient will FIRST DETACH COPY, then complete and return to sender immediately)

RECEIVING OFFICE	TYPED OR PRINTED NAME AND GRADE OF RECEIVER	SIGNATURE	DATE RECEIVED
10	11	11	

DESTRUCTION CERTIFICATE (Check appropriate box) — DATE

THE MATERIAL LISTED ABOVE OR RECORDED ELSEWHERE ON THIS FORM HAS BEEN ☐ DESTROYED ☐ COMMITTED TO THE SPECIAL DESTRUCTION ACTIVITY

TYPED OR PRINTED NAME, GRADE AND SIGNATURE OF CERTIFYING OFFICIAL	TYPED OR PRINTED NAME, GRADE AND SIGNATURE OF WITNESSING OFFICIAL
12	12

AF [illegible] 310

369

(a) Do not enter any information on this form that might cause it to be classified. Also, do not use a letter of transmittal to forward a separate letter in order to avoid preparing an AF Form 310.

(b) To complete, make the entries as follows (see key numbers above):

(1) Enter the address as required by the method of dispatch; use the functional address symbol to indicate the action (AFMs 10-5 and 10-6). When two or more addresses are to receive the same document you may enter the words, "SEE DISTRIBUTION" in block 1 after the "TO:" caption. See item 9 for instruction on listing addresses.

(2) Enter the date of the document being recorded.

(3) Enter the US Postal Registry number, or other assigned container number (AFM 10-5).

(4) Enter the control number if a Top Secret document is being dispatched.

(5) Enter the suspense date; may be entered by the receiving office or by the sending office, as appropriate.

(6) Enter the highest classification of the document being described.

(7) The file designation need not be shown.

(8) May be completed by the sending office before the document is dispatched, or may be completed by the receiving office; internal routing may be shown under "Description of Document," if preferred.

(9) Prepare the description block in columnar format if possible; linear format should not be used unless absolutely essential. Classification abbreviations (TS), (S), (C), (TS-RD), etc. following the subject or title become a part of the subject/title and will be recorded on receipts, registers, logs, etc., to properly describe the document. When it is necessary to abbreviate a subject or title because of its classification, use the abbreviated version of the actual classification assigned them, as shown above. Do not use the abbreviation (U) after the short title, however. If the document is a message, use the identification elements prescribed in AFM 100-20. List each classified attachment that would require an AF Form 310 if transmitted separately; include a complete description, as illustrated, and show the number of copies of each attachment if this is different from the number of copies of the basic document being described. (Do not list any unclassified attachments.) If the words "SEE DISTRIBUTION" were entered in block 1 of the example, then list the intended addresses two line spaces below the last document description. The reverse side may be used as a continuation sheet.

(10) For use by the receiving office.

(11) Self-explanatory; the recipient will enter the typed or printed name; must be the same as the name in the signature.

(12) Self-explanatory; to be completed by the destroying and witnessing officials. Written name must be the same as the typed or printed name in each case.

Subpart J—Transmission

§ 850.153 Removal of classified material.

No one is authorized to remove classified material from the installation or organization having responsibility for its custody without specific permission from the commander concerned or his designated representative.

§ 850.154 Top Secret, accompanied State Department diplomatic pouch.

(a) All Top Secret material originating in the United States which is destined for an oversea installation serviced by diplomatic pouch is delivered by another authorized means of transportation to the Department of State, 2201 C St. NW, Wash DC 20521. The outer cover shows the Department of State as the addressee and the innermost cover shows the address of the specific recipient. The pouch prepared by the Department of State constitutes an adequate outer cover during transmission.

(b) Top Secret material originating overseas which is destined for an installation serviced by diplomatic pouch is packaged as prescribed in the DOD ISPR and this part and is then delivered to the nearest US embassy, consulate, or mission, for transmission to the addressee. This method is used

exclusively to transmit all classified material through, or within, Communist-controlled countries or any other foreign country where the material would conceivably be subject to customs inspection or other examination.

§ 850.155 Top Secret, protected wire-line distribution systems.

A protected wireline distribution system consists of wirelines, subscriber sets, and terminal equipment to which electromagnetic and physical safeguards have been applied to permit secure transmission. These protected systems may be authorized by HQ USAF/PRCOC based on the criteria outlined in AFM 100-45. It is technically feasible to connect installations with a protected wireline distribution system; however, to meet security requirements and construction criteria, it usually is prohibitive from the standpoint of cost and manpower to maintain continuing, adequate control of the off-base wireline links.

§ 850.156 Top Secret, selection of personnel.

Within the Air Force, personnel selected for the above duties must possess a current final Top Secret clearance based on a favorable background investigation completed in accordance with AFR 205-32. The final selection is based on demonstrated stability, reliability, maturity, and judgment. The official who appoints the Top Secret Control Officer makes the selection.

§ 850.157 Secret, transmission by diplomatic pouch.

Secret material transmitted by accompanied Department of State diplomatic pouch may be sent to Department of State (or other State Department facility) as the addressee. Prepare the inner cover as prescribed in § 850.154.

§ 850.158 Secret, postal limitations.

When registered material has been signed for by the addressee or his representative, it cannot be reintroduced into postal channels with the same outer wrapper or registry number under which it was received. It must be rewrapped and reregistered.

§ 850.159 Secret, protective security service.

See the Industrial Security Regulation DOD 5220.22-R and AFM 75-2, chapter 226, for detailed procedures.

(a) Top Secret material, certain Restricted Data and Crypto material are not shipped by commercial carrier without being protected by authorized couriers, and by guards if necessary. Guards are not armed except as provided in § 850.164.

(b) Within the LOGAIR System, Secret material may be receipted for on a terminal to terminal basis provided:

(1) AF Form 127, Traffic Transfer Receipt, is executed for each item of material by LOGAIR terminal personnel at points of origin, destination, and each intermediate stop at which cargo is off-loaded and depalletized for further transmission.

(2) LOGAIR aircrew personnel are not required to sign an individual AF Form 127 for palletized cargo provided a cleared crewmember acknowledges receipt for the aircraft load by the number of pallets on the cargo manifest or similar form which indicates which pallets require Protective Security Service (PSS).

(3) Aircrew briefing procedures include a reminder of LOGAIR responsibility for the protection of PSS cargo at any en route landing at points other than LOGAIR terminals.

§ 850.160 Secret, other carriers.

Within the Air Force, aircraft commanders are not assigned this duty; appropriately cleared crewmembers or passengers are selected. Classified material is not transported in external appendages to aircraft. Armament bays of aircraft may be used to transport classified material only when they are properly secured and kept under surveillance until the classified material is receipted for by the addressee or his authorized representative.

§ 850.161 Confidential.

Transmission by First Class Mail. See AFM 10-5.

§ 850.162 Confidential, signature security service.

See AFM 75-2, Chapter 226, for detailed procedures.

§ 850.163 Consigner-Consignee responsibility for shipment of bulky material, reports of shipment.

Notifications to outloading terminals should be by telephone or teletype "Report of Shipment" (REPSHIP). See AFM 67-1, Volume I, chapter 6 for additional instructions on the shipment of classified material.

§ 850.164 Transmission of restricted data, EOD publications.

Nuclear weapons EOD publications known as EOD Procedures are transmitted by Armed Forces Courier Service (ARFCOS) when destined for delivery on foreign soil. From the time of pickup on foreign soil by command/unit from ARFCOS, EOD Procedures being moved by land outside US-controlled military installations are guarded by two men, one of whom must be armed when authorized by applicable international agreement and national policy.

§ 850.165 Routing of classified transmissions.

(a) Routing Transmissions. All material classified Top Secret is transferred, transmitted, or dispatched through the TSCO. Material classified Secret or Confidential is routed from the accountable or controlling office direct to the office that will use or take action on the material. Receipt and dispatch of classified material through the base distribution system is described by AFM 10-5. All classified material received or dispatched by electrical message must be routed through established secure telecommunication channels.

(b) Authority for Opening Material. Inner wrappers marked to show that the contents are classified are opened only by the addressee; in the case of Top Secret material, by the TSCO, or a deputy TSCO or TSCO agent; or, in the case of Secret and Confidential material, by the accountable officer, or his designated representatives. Only those persons necessary for the proper and efficient transaction of business may be authorized to open classified material.

(c) Inspection of Wrappers. Before opening a package of classified material, the seals and both outer and inner wrappings must be examined to determine if there has been any tampering. If evidence of tampering exists, an inquiry is undertaken promptly, and the facts are reported to the dispatching activity. In such cases, wrapping material of the package concerned should be retained as long as required for investigative purposes.

(d) Return of Receipts. Immediately after opening a container of classified material, check the contents against the receipt inclosed. Date, sign and return the receipt promptly. (Facsimile signatures are not authorized.)

(e) Tracer Action. Each office or activity that dispatches classified material requiring a receipt establishes an international suspense for receiving the return receipt. If the receipt has not been received within the time periods prescribed in § 850.145, tracer action is taken. Details pertaining to receipts for Secret material and Confidential material requiring a receipt are given in Subpart H.

§ 850.166 Intra-Interbase transmission.

See AFM 10-5 for specific procedures.

§ 850.167 Sending classified files to records centers.

(a) Top Secret. Normally, Top Secret documents destined for records centers should be downgraded before transmission to such centers. However, if Top Secret documents must be forwarded to records centers, they are prepared for transmission in the same manner as any other Top Secret material. All documents must be listed individually on SF Form 135, Records Transmittal and Receipt. The procedures in paragraph (b) of this section may be employed in preparing current bulk files of Top Secret material for transmission when a unit is transferred to another station.

(b) Secret and Confidential. When Secret and Confidential files are too bulky to be sent to record staging areas and records centers by means

authorized for individual documents, they must be packed in shipping containers according to AFM 12-50 and transmitted by one of the methods authorized in this chapter of the DOD ISPR or this part. Normally, Secret and Confidential documents are listed categorically by record series and inclusive dates on SF 135 or Optional Form 11 (OF 11), Reference Request—Federal Records Centers. For Secret documents, this listing also may include a folder-by-folder description of the records involved. These procedures may be used to transmit current files when a headquarters or unit is transferred.

§ 850.168 Transmission by pneumatic tube systems.

A commander may authorize the use of a pneumatic tube system for the transmission of classified material within an installation or building, provided he makes a specific determination in each case that the equipment, tube installation, safeguards, and operating procedures afford the required degree of security for the classified information involved; and, as a minimum:

(a) The tube system is contained entirely within the confines of an installation or building under US control; the system is installed in a manner which precludes tampering with or surreptitious access to the classified materials; and the tube or carrier is a direct point-to-point channel between the two transmission stations.

(b) The classified material is transmitted only when an authorized recipient, who has been positively identified by the sender, is in place at the receiving end of the tube; has been alerted to the intended transmission; and, when a receipt is required, signs and returns it immediately, via the tube, to the sender.

(c) An immediate reaction capability exists to retrieve the classified material if the tube system malfunctions, and security measures are instituted to safeguard the material until it is retrieved.

(d) Specific directives and procedures are established to govern the operation and use of the system, and close supervision is exercised to assure continuing compliance with the operating procedures and adequate protection for the classified material.

§ 850.169 Exemption from customs examination.

(a) US Customs. Classified documents are carried through a US customs station only by an official courier, designated in travel orders, or by the Armed Forces Courier Service. The documents must be inclosed in an official cover.

(b) Foreign Customs. The procedures in this section do not exempt documents from examination by customs representatives of foreign nations. Therefore, officers responsible for designating official couriers must consider the possibility of such examination resulting from stops en route. If risk of such examination is anticipated, these officers select another authorized means of transmission. (An accompanied State Department diplomatic pouch provides the only method of transmission that exempts official communications from all customs examination.)

§ 850.170 Designation of official couriers.

(a) Selection. Individuals authorized to carry classified material across a national boundary are designated as official couriers.

(b) Travel Orders. A request for travel orders for an individual referred to above includes a request that he be designated an official courier in his orders if he must carry classified documents through any customs station. If the individual is travelling to or through a NATO member country, NATO travel orders as prescribed by AFR 205-43, are also required.

(c) Courier Letter. The officer who requested the travel orders signs and furnishes an unclassified courier letter to the courier. The letter should be addressed "To whom it may concern," and identifies the courier by name, grade (or civilian rating or position), SSAN, and organization. It also must identify, by address, return address, and any other distinguishing mark or notation, each official cover that is to be carried by the courier, as in the following example:

Subject: Identification of an Official Courier.

To whom it may concern:

1. Captain Randolph X. Roe, 215—14—0833R, USAF, is acting in an official capacity as courier for HQ USAF. He is carrying one brief case and package from the Chief of Staff, USAF, addressed to PACAF, APO San Francisco 96553.

2. This brief case and package are further identified by the inscriptions on the covers "OFFICIAL UNITED STATES AIR FORCE COMMUNICATION, EXEMPT FROM EXAMINATION" and the signature of the Executive, Office of the Deputy Chief of Staff, Operations, HQ USAF.

For the Chief of Staff.

(Signature element).

(d) Material Carried for Reference Purposes. If the courier will use the classified document while he is on temporary duty and return it when he returns, the courier letter should so state. Such a letter must include a statement that the material is for the courier's use in the performance of his official duties.

(e) Restriction on the Use of Courier Letter. An official courier is not designated to convey personal communications or objects; and no such communication or object may be placed in an official cover referred to in this section.

(f) Preparation of Official Covers:

(1) Definition. For the purpose of this section, an "official cover" includes any sealed envelope, packet, case, or other cover which contains classified documents and is prepared as directed in paragraph (f)(2) of this section.

(2) Certification. The outer surface of each official cover to be carried by a courier must be marked "Official United States Air Force Communication, Exempt from Examination," followed by the official signature of the officer who signed the courier letter describing the cover, as in the following example:

Department of the Air Force
Headquarters, United States Air Force

Washington, DC 20330

———————

Official Business

———————

OFFICIAL UNITED STATES AIR FORCE
COMMUNICATION EXEMPT FROM EXAMINATION

PACAF
APO San Francisco 96553
Robert A. Doe
ROBERT A. DOE
Colonel, USAF
Executive, Office of
Deputy Chief of Staff, Operations

§ 850.171 Classified transmission to multinational combined commands.

The USAF participates as a member in a number of integrated multinational commands or activities such as North American Air Defense (NORAD), Supreme HQ. Allied Powers Europe (SHAPE), and Inter-American Defense College (IADC).

(a) There are a number of such commands or activities which are jointly manned by nationals of the participating countries. Therefore, each Air Force activity must be fully aware that the transmission of any classified material to such integrated commands is tantamount to "Foreign Release." Such a transmission will contain a statement that the requirements for foreign release as outlined in AFR 200-9 have been considered and that the material is, in fact, releasable. The statement will read as follows:

"This transmission has been evaluated for releasability to (integrated command or activity) in accordance with AFR 200-9 and has been determined to be releasable to (identify foreign nations or pact organization)."

(b) If the material involved is intended for US personnel only, address it to the US unit of command concerned (for example, CINCONAD is a US element of NORAD); see AFM 10-4 for other activities.

§ 850.172 Envelopes or containers.

See AFM 10-5 for preparation of envelopes and containers.

§ 850.173 Addressing, material containing critical nuclear weapon design information.

Envelopes enclosing Critical Nuclear Weapon Design Information bear, in addition to the Restricted Data marking, the Critical Nuclear Weapon Design Information marking plus the notation: "To be opened only by personnel authorized access to Critical Nuclear Weapons Design Information." Inner envelopes enclosing Formerly Restricted Data but no Restricted Data bear the Formerly Restricted Data marking.

§ 850.174 Receipt systems, Top Secret.

Normally, Top Secret material is receipted for on AF Form 310; however, transactions may be receipted for on AF Form 143 as prescribed in Subpart H.

§ 850.175 Receipt systems, Secret.

Receipts for Secret material also are accomplished when Secret material is entered into a distribution system (see § 850.146).

§ 850.176 Receipt systems, Confidential.

Within the Air Force responsible authorities may require receipts for Confidential material in transactions which involve:

(a) Foreign disclosure.

(b) Aircraft and missile delivery.

(c) For material delivered to persons or agencies outside the Executive Branch of Government (other than DOD contractors).

(d) Cryptographic material when prescribed by other directives.

§ 850.177 Receipt systems, receipt forms.

(a) Authorized Receipt Forms. The following receipt forms, with prescribing directives indicated, shall be used within the Air Force:

Receipts	*Prescribing directives*
(1) AF Form 12, Accountable Container Receipt.	AFM 10-5.
(2) AF Form 127, Traffic Transfer Receipt.	AFM 75-1 and AFM 76-1.
(3) AF Form 208, TF/MPS/CMS Inventory Index.	AFR 55-25, Vol II.
(4) AF Form 310, Document Record and Receipt.	AFR 205-1.
(5) AF Form 349, Receipt for Documents Released to Accredited Representatives of Foreign Nations.	AFR 205-1 and AFR 200-9.
(6) AF Form 510, Aerospace Vehicle Delivery Receipt.	AFM 67-1.
(7) AF Form 627, Application for Registration or Certification of Official Mail or. USPS Form 3877, Application for Registration or Certification.	AFM 10-5.
(8) AF Form 777, Message Register Receipt and Destruction Certificate.	AFM 100-20.
(9) AF Form 778, Message Receipt Assignment Log.	AFM 100-20.
(10) AF Form 779, Message Receipt Control Log.	AFM 100-20
(11) AF Form 1014, Message Delivery Register.	AFM 100-21
(12) AF Form 1022, COMMCEN Message Register.	AFM 100-21
(13) AF Form 1565, Entry, Receipt and Destruction Certificate.	AFR 205-1
(14) SF 135, Records Transmittal and Receipt.	AFM 12-50
(15) DD Form 1149, Requisition and Invoice Shipping Document.	AFM 67-1
(16) DD Form 1348-1, DOD Single Line Item Release/Receipt Document.	AFM 67-1
(17) ARFCOS Form 1, Armed Forces Courier Receipt to Sender.	AFR 182-14
(18) ARFCOS Form 4, Armed Forces Courier Delivery Receipt.	AFR 182-14
(19) OF 11, Reference Request—Federal Records Centers.	AFM 12-50

NOTE: A Telecommunications Center may use AF Forms 777, 778, and 779, or AF Forms 1014 and 1022 in lieu of AF Form 310 to account for each Secret or Confidential message, and copies thereof, which it receives or dispatches to agencies which it services. However, AF Form 310 is used for the control of classified messages where that procedure is more practical.

(b) Locally Devised Forms. The use of locally devised forms is prohibited unless an exception is specifically approved in writing by the major command concerned or, in HQ USAF, by the 1143 ABS/SP. Such an exception should be authorized only when modification of a standard receipt form is necessary to permit the use of mechanized distribution or accounting systems.

§ 850.178 Receipt systems, use of AF Form 1565, entry, receipt and destruction certificate.

(a) AF Form 1565 is a multi-purpose form. It may be used as a receipt for

the accountable classified document changes, a receipt for superseded accountable classified pages when they are transmitted to another office, an entry certificate or change sheet to post in the basic document, and a certificate of destruction for the accountable superseded pages. The originator may optionally use AF Form 310 in lieu of AF Form 1565 for receipting purposes; however, at least two completed copies of the AF Form 1565 always must be provided for the use of the recipient (see (a) and (b) below). Sufficient copies must be sent to the recipient to provide:

(1) One copy on which to certify the destruction of superseded pages for each copy of each basic publication held by the recipient.

(2) One copy to post as a change sheet in each copy of each basic document held by the recipient.

(3) One copy for return as a receipt for classified change pages (required only when AF Form 1565 is used as a receipt).

(4) One copy for use as a receipt for the superseded pages returned to the originator (required only when the originator requires their return or dispatch to another office in lieu of destruction).

(b) In the case of classified publications, include two completed copies of AF Form 1565 as part of changes which contain page changes to classified publications.

(c) Instructions for completing AF Form 1565 are contained in § 850.179.

§ 850.179 How to complete Air Force Form 1565.

Item	A—Who completes	B—What to enter
1	Recipient	Self-explanatory.
2	Originator	Self-explanatory.
3	do	Addressee; if a multiple addressee, enter "See distribution list."
4	Recipient	Self-explanatory.
5	Originator	Describe the basic document; if the document is Top Secret, also add the control/register page number.
6	do	Describe the change/amendment and enter the copy number. If the document is Top Secret, leave the copy number blank for the recipient to enter; also, if the document is Top Secret, add the control/register page number.
	Recipient	If the document is Top Secret, enter the copy number.
7	Originator	Describe the sections of the basic document that are being changed; also, indicate any pen-and-ink changes.
8	do	List the pages to be removed from the document.
9	do	List the pages to be inserted in the document.
10	Recipient	Enter "X" in the proper box if the form is being used as a receipt for the change.
11	do	Enter "X" in the proper box if the form is being used as a receipt for superseded material returned to another office for destruction.
12 thru 14	do	Self-explanatory.
15	Originator	If the form is being used as a receipt for the change, enter the highest security classification of any page being transmitted.
16	Recipient	Copy the number of the basic document, and enter "X" in the proper box.
17 thru 19	do	Self-explanatory.
20	do	Enter the highest security classification of any page removed from the basic document.
21	do	Enter an "X" in the proper box.
22 thru 27	do	Self-explanatory.

Subpart K—Disposal and Destruction

§ 850.180 Policy.

See AFM 12-50 for destruction of documentary record material. See AFM 67-1, Volume I, Part I, chapter 19 for instructions concerning destruction of classified items of material.

§ 850.181 Methods of destruction, destruction devices.

Classified material may be destroyed by the destruction devices listed in the Federal Supply Schedule as "security equipment" or "for security purposes." Equipment must be selected with caution because the Federal Supply Schedule also lists some destruction devices intended for other purposes which are not guaranteed to preclude reconstruction of documents. The following devices have been approved:

(a) Pulping machines which conform to Federal Specification FF-P-00800 (GSA-FSS) May 17, 1965.

(b) Pulverizing machines which conform to Federal Specification FF-P-00810 (GSA-FSS) June 15, 1965.

(c) Shredding machines listed on the Federal Supply Schedule capable of shredding material to strips 1/32 of an inch.

§ 850.182 Methods of destruction, classified film or film products.

Classified film or film products should be destroyed by burning or chemical decomposition.

§ 850.183 Methods of destruction, commercial destruction equipment.

Requests for approval of commercial destruction equipment not listed on the Federal Supply Schedule may be submitted through command channels to HQ USAF/ISPIB. Approval normally is limited to equipment which has already been tested and certified by another DOD component. The Air Force normally will not undertake the test and evaluation of additional equipment with the same capability as similar equipment which has already been tested and approved.

§ 850.184 Records of destruction, normal destruction procedure.

Classified material is destroyed by or in the presence of two officials (see § 850.185(e)). One serves as "destroying official" and the other as "witnessing official." They (a) safeguard the classified material entrusted to them until it is actually destroyed; (b) inventory the classified material to be destroyed against the accountability records or destruction certificate; (c) perform or supervise the destruction of the classified material, assure its complete destruction, and ascertain that legible scraps or recognizable parts of the material do not remain in the incinerator or machine or at the destruction site; and (d) complete the certification required below.

§ 850.185 Records of destruction, central destruction procedure—special destruction activity.

The special procedure authorized herein provides a centralized system for the destruction of classified material whereby (a) individual certifying officials prepare the classified material for destruction and authorize the termination of accountability for Top Secret or Secret material, and (b) a "central destruction activity" accomplishes the actual destruction of the classified material, including classified waste.

(1) Installation commanders, wing commanders, or higher, may authorize the use of central destruction procedures.

(2) If a commander authorizes the use of central destruction, he issues explicit written instructions prescribing the procedures to be followed and the responsibilities and functions of the personnel involved. He provides for close overall supervision and for adequate and frequent inspection of the entire process.

(3) Two officials in the office responsible for the classified material are designated to act as the "certifying official" and "witnessing official." They (i) inventory the classified material against control records or a destruction certificate; (ii) place the classified material in a bag or other suitable container (sealed with staples or tape, and when appropriate, bound to prevent its accidental tearing or breaking); (iii) mark the bag or container with the highest classification of the material it contains; (iv) promptly deliver the bag or container to the special destruction activity (no receipt is required for this transaction); and (v) complete and submit the certification required below. (In this case, the normal certificate shall be modified to read, "The classified material listed above has been committed to the special or cen-

99-112 O—82—25

tral destruction activity." The officials sign as "certifying official" and "witnessing official"). On completion of these actions the accountability records are annotated to reflect the destruction of the classified material on the date the material was delivered to the central destruction activity.

(c) The central destruction activity comprises: (1) An official to supervise the destruction process; (2) appropriately cleared personnel to accomplish the actual destruction under his supervision; (3) secure facilities for storing the classified material until its actual destruction; (4) facilities for accomplishing the actual destruction; (5) when applicable, secure means (such as a closed car, van, or truck) for transporting the classified material from the storage site to the destruction site.

(d) The central destruction activity (1) safeguards the classified material until it is actually destroyed; (2) prevents access to the bags or containers, or to their contents, by anyone not engaged in the actual destruction thereof; (3) accomplishes the destruction of the classified material; and (4) assures that no legible scraps or recognizable parts of the material remain in the incinerator or machine or at the destruction site. Once committed to the special destruction activity, the bags or containers must be kept intact, and no one, including the original accountable office, is permitted access to their contents, unless specifically authorized in each case by the commander for inspection or investigation purposes. When a commercial contractor is employed to provide the equipment used for destruction by a method prescribed in paragraph (c) of this section, the contractor is not afforded access to the classified information; the certifying and/or witnessing official personally places the classified material in the contractor-furnished destruction equipment, and remains at the destruction location for the length of time necessary to insure the complete destruction of the material. Under no circumstances is the classified material to be relinquished to the contractor.

(e) Destruction officials and witnessing officials must be appropriately cleared officers, non-commissioned officers or civilian employees selected on the basis of demonstrated reliability, maturity, and judgment. For specific policy regarding the destruction of SIOP-ESI documents, CRYPTO documents, or other special access program documentation, see the publications pertaining to those programs.

§ 850.186 Records of destruction, certificate of destruction.

After destroying Top Secret or Secret material, a completed certificate of destruction shall be furnished to, and retained by, the office which has custodial responsibility for the destroyed material.

(a) Regardless of the form used, the required certificate must include: identification of the material, date of destruction, the certification of destruction, the signatures of the destroying and witnessing officials. The certificate may be made on AF Form 145, Certificate of Destruction of Material, AF Form 310, SF 135, AF Forms 777 or 1565.

(b) On completion of the destruction and the required certification, the accountability records for the classified material shall be annotated to reflect the destruction. The certificates are retained as prescribed in AFM 12-50.

(c) Confidential material is destroyed in the same manner as Top Secret and Secret material except that certificates of destruction and witnessing officials are not required.

§ 850.187 Classified waste.

Classified waste material includes byproducts of printing and graphic arts, stencil plates and masters, proofs, overruns, samples, and spoilage. Any of these materials retained for reuse are safeguarded and accounted for in accordance with their classification.

Subpart L—Security Education

§ 850.188 Responsibility and purpose.

Commanders and chiefs of major HQ USAF offices maintain active security education programs for all personnel under their jurisdiction who have access to classified information. The program is operated under the supervision and guidance of the security

managers appointed in each activity under § 850.206.

§ 850.189 Scope and principles, job oriented.

Training and indoctrination in the principles outlined in DOD ISPR, chapters I and IV, and in this part, should be job-oriented and keyed to the individual's duties. General information on the total content of the chapters can best be accomplished by individual study, reinforced by seminar discussions and question and answer periods which relate to the individual's assignment.

§ 850.190 Scope and principles, foreign intelligence threat.

The training prescribed by AFR 205-57, Reporting and Investigating Espionage, Sabotage, and Subversion, satisfies the requirements of this paragraph.

§ 850.191 Scope and principles, telephone discussions.

AFM 100-45, Volume I may be used to satisfy the requirements of this paragraph.

§ 850.192 Scope principles, disciplinary action.

As a minimum personnel should be briefed on the requirements of chapters VI and XIV of the DOD ISPR and this part.

§ 850.193 Foreign travel briefings.

Commands or activities conduct these briefings. The servicing AFOSI unit may be requested to assist in their preparation. On completion of the travel, the traveler is debriefed. If this debriefing discloses hostile intelligence effort, report the facts to the servicing AFOSI unit.

(a) To accomplish the desired objective, the defensive security briefing must alert personnel concerned to be on guard against their exploitation by others whose interests may be inimical to those of the United States. To do this, such briefing should contain guidance and general information on the various areas of interest to hostile intelligence services, techniques used by these services, and on the nature of conduct of activity that could result in individuals being placed in compromising situations.

(b) The content and detail of briefings may vary, depending upon the specific nature and classification of the information possessed by the person(s) being briefed, the level of the office or position they occupy, and the scope and nature of the threat to which their proposed activity might expose them.

§ 850.194 Debriefings.

Use AF Form 2587, Security Termination Statement, for this purpose. Completed statements are retained as prescribed in AFM 12-50. Pertinent portions of the Espionage Act are found in 18 U.S.C. 793 and 794, 50 U.S.C. 783 of the Subversive Activities Control Act of 1950 is an appropriate reference for the Criminal Statutes referred to in this subparagraph of the DOD ISPR. Persons whose duties have involved access to Restricted Data or Formerly Restricted Data also should be required to read 42 U.S.C. 2274 through 2277 of the Atomic Energy Act of 1954. Extracts of these statutes may be locally produced with the assistance of the Staff Judge Advocate that services the command or activity.

Subpart M—Foreign Origin Material

§ 850.195 NATO, CENTO, and SEATO.

Within the Air Force the marking requirements are expanded in AFRs 205-43, 44 and 45.

§ 850.196 NATO, CENTO, and SEATO classified information.

See AFRs 205-43, 44, and 45 for detailed Air Force implementation.

§ 850.197 Classified material of foreign origin.

See § 850.44 for special rules on classification marking for subjects and titles.

Subpart N—Special Access Programs

§ 850.198 Future programs.

Requests for approval are submitted through command channels and HQ USAF/SPIB.

Subpart O—Program Management

§ 850.199 Military Departments, Air Force Classification Review Committee.

The senior official responsible for the Air Force Information Security Program is The Chief of Security Police.

§ 850.200 Committee membership.

Members of the Air Force Classification Review Committee (AFCRC) are: The Chief of Security Police (Chairman), a representative of the Administrative Assistant to the Secretary of the Air Force, The Judge Advocate General, and the Director of Information.

§ 850.201 Functions of the Committee.

The AFCRC considers and decides upon complaints, suggestions, or appeals concerning classification or declassification matters that cannot be resolved successfully through normal staff action.

(a) It also reviews appeals brought under the Freedom of Information Act (Part 806) when a denial of a request for records is based on continued classification. The decision of the Committee will be forwarded as a recommendation to SAFAA, who has the final decision making authority for these appeals.

(b) In exceptional cases, the AFCRC recommends administrative action to the Secretary of the Air Force to correct an abuse or violation of Executive Order 11652 or DOD 5290.1-R.

§ 850.202 Matters to be referred to the Committee.

The AFCRC is in essence an appeal review board that deals with exceptional instances in which departmental classification decisions are being contested and is therefore concerned only with appeals that originate outside the Air Force.

(a) Differences of view concerning classification that arise between various Air Force elements are resolved through normal staff and command channels.

(b) Administrative action to correct abuse or violation of Executive Order 11652 or DOD 5200.1-R is generally taken by appropriate command echelon and is therefore not referred to the AFCRC. The AFCRC recommends administrative action only when the need becomes apparent as a result of the AFCRC's own review of an appeal action, or in exceptional circumstances when the Secretary of the Air Force or the Chairman of the AFCRC considers special review and recommendations to be necessary.

§ 850.203 Manner of referral to the committee.

Any Air Force activity that receives a formal request for review of a departmental classification decision by the AFCRC, forwards the request, with all pertinent papers, to HQ USAF/SP. HQ/USAF/SP reviews the matter against basic classification policies, coordinates as necessary through normal Air Staff procedures, and if possible resolves the matter without referral to the AFCRC. If the matter cannot be resolved to the satisfaction of the appealing party and review by the AFCRC is still desired, HQ USAF/SP advises the Chairman of the AFCRC that a decision by the committee will be necessary. The Chairman of the AFCRC schedules a meeting of the committee and advises other committee members.

§ 850.204 Conduct of committee meetings.

HQ USAF/SP performs executive secretary functions in support of the AFCRC and presents to the committee the issue to be resolved, the points of difference, the classification policies pertinent to these points and HQ USAF views developed during preliminary staffing.

(a) If necessary, HQ USAF/SP arranges for representatives of appropriate HQ USAF offices to be present to assure proper representation of one or more HQ USAF offices or to permit in-

terpretation of specialized information.

(b) Decision of the AFCRC is by majority vote of the members of the committee. If a majority vote is not reached, the matter is referred, through the Air Force Chief of Staff to Secretary of the Air Force for decision.

(c) HQ USAF/SP maintains records of all AFCRC meetings and provides copies of these records to each committee member and to other elements of the Air Force directly concerned.

§ 850.205 Program monitorship.

The Inspector General exercises his inspection responsibilities under this part through the Deputy Inspector General for Inspection and Safety. Inspection reports are processed as prescribed in the 123 series of Air Force directives. All other facets of program monitorship are exercised through The Chief of Security Police, HQ USAF.

§ 850.206 Field program management.

The senior Security Police official at each command or installation is designated security manager for those activities he services. Separate security managers may be designated when separate commands are represented on an installation. Commanders at activities not having a security police unit will appoint a security manager. The security manager will:

(a) Insure that security managers are appointed by each unit/staff agency he services.

(b) Manage the overall installation and headquarters information security program and provide technical guidance and assistance to unit and staff agency security managers.

(c) Conduct quarterly security managers meetings. Prepare and distribute minutes of the meetings to all unit and staff agency security managers for use in their security programs.

§ 850.207 Security manager program.

Unit staff agency security managers will insure implementation of and compliance with the DOD Information Security Program within the activity to include:

(a) Providing advice and assistance to the commander and personnel assigned to the organization.

(b) Insuring development and implementation of internal operating instructions where required.

(c) Insuring compliance with the security education requirements of Subpart K.

(d) Monitoring the internal semiannual security inspection program to insure that the inspections are of sufficient scope and depth to identify deficiencies and accurately evaluate the status of security and to insure appropriate corrective actions.

§ 850.208 Command level monitorship.

At command levels below HQ USAF, Inspectors General, when assigned, perform inspection functions to assure compliance with this directive, and report results in the manner prescribed by the 123 series of Air Force directives. All other program management and monitorship functions are assigned to the Security Police activity.

§ 850.209 Semiannual security inspections.

In addition to the inspections conducted by Inspectors General, unit commanders and chiefs of major staff offices inspect their activities at least twice each year.

(a) These inspections include security procedures such as classification, dissemination, transmission, accountability and control, storage, review for downgrading and declassification, destruction of classified matter, and security education and orientation. The inspection of each element of the security program may be made on the basis of a representative sampling, but must be extensive enough to reflect the effectiveness and correctness of security procedures and to assure compliance with this regulation.

(b) The person conducting the inspection furnishes a written report of his findings to the commander or office chief concerned. The commander or office chief reviews the report to determine the adequacy of the inspection and to identify corrective action required. The inspection report is retained for review by inspectors and se-

curity managers and disposed of according to AFM 12-50.

§ 850.210 Reporting requirements.

(a) General. The reporting requirements formerly prescribed under RCS: DD-A(Q) 1183 have been canceled and replaced by the following reports, which are consolidated and submitted quarterly, the information to be current as of the 15th day of March, June, September and December:

(1) Report of Authorized Classifiers, RCS: 1226-GSA-QU-T;

(2) Report of Classification Abuses, RCS: 1223-GSA-QU-T;

(3) Report of Unauthorized Disclosures, RCS: 1224-GSA-QU-T;

(b) Reporting Deadlines. Major commands report by message or letter to reach HQ USAF/SPIB no later than 15 calendar days following the end of the reporting period.

(1) The Strategic Air Command (SAC) reports for HQ SAC directly to the Deputy Assistant Secretary of Defense (Security Policy) as prescribed in the DOD ISPR, para 1-601. SAC reports for all subordinate headquarters and field units to HQ USAF/SPIB.

(2) Major HQ USAF offices report to the 1143d Air Base Squadron/SP no later than 10 calendar days following the end of the reporting period. The 1143d ABS/SP submits a consolidated report for HQ USAF and OSAF to reach HQ USAF/SPIB no later than 15 calendar days following the end of the reporting period.

(3) Negative reports are not required.

(c) Report on Authorized Classifiers, RCS: 1226-BSAQU-T. Report each change in the designation of any Confidential classification authority. Original Top Secret and Secret classification authorities require approval on an individual basis at departmental level and therefore are not reported; however, any change that does not require this approval (such as deletions or unit designation changes) must be reported.

(d) Report of Classification Abuses. RCS: 1223-GSA-QU-T.

(1) The term "classification abuse" means an unnecessary classification, an over or under classification, a failure to assign the proper downgrading and declassification schedule, an improper application of classification markings, an improper placing of a document in an exempt declassification category, any classification or exemption action taken without proper authority, or an improper delegation of classification authority.

(2) A reportable abuse shall mean any of the actions described above except those that result entirely from a judgment decision where the principles set forth in paras 2-300 and 3-100 of the DOD ISPR were fully considered and it is reasonable to assume that a good faith basis for the action taken existed. A reportable abuse shall be grounds for administrative action as provided in paragraph 14-101a, DOD ISPR 5200.1-R. Reports of abuses shall include the following:

(i) Date, organizational unit and location.

(ii) Details of the abuse (for example, improper use of exemption authority or unauthorized use of such authority, together with the circumstances surrounding the case).

(iii) Corrective measures taken to prevent recurrence, to include any administrative action taken against the individual involved.

(e) Report of Unauthorized Disclosures. RCS: 1224-GSA-QU-T. Reportable unauthorized disclosures are those cases which involve the release and disclosure of classified information, either deliberate or inadvertent, as contrasted to physical security violations such as an unattended, open security container or the confirmed loss of control of a classified document.

(1) The principal criteria for determining whether a disclosure is reportable include:

(i) The release and disclosure are of sufficient importance to warrant formal investigation; and

(ii) The formal investigation establishes that an important disclosure of classified information did, in fact, occur.

(2) Unauthorized disclosure reports will include the following:

(i) Date of the incident, if known.

(ii) Subject and security classification of the disclosed information. Indi-

cate whether the disclosed information can be declassified.

(iii) Identity of the document disclosing the information or material, if known.

(iv) Identity of the publication (public press, technical journal, report), speech or briefing containing the disclosed information or the unauthorized recipient of the classified information.

(v) The reporting activity's evaluation of the impact of the disclosure on national security.

(vi) Indicate whether the unauthorized disclosure has been referred to the Department of Justice for prosecution. In lieu of recommended legal action, indicate other action taken or pending.

(vii) Where appropriate, the action planned or taken to prevent recurrence.

(viii) Forward additional sheets or exhibits by mail as necessary.

Subpart P—Classification Management

§ 850.211 General.

Unnecessary classification impedes operations and raises costs. Failure to classify information which should be protected jeopardizes military operations. Inconsistent classification serves neither economy nor operational security, and creates confusion. Therefore, it is essential that classification matters be properly coordinated and managed at all echelons.

§ 850.212 HQ USAF.

The chief of each office at directorate or comparable level:

(a) Issues classification guidance for programs, plans, and operations over which he has primary functional responsibility;

(b) Establishes procedures to assure that classification guidance issued by his activity is properly coordinated with other elements of the Air Staff;

(c) Within his functional responsibility, determines the classification, downgrading, or declassification of information referred to him for review; and

(d) Establishes procedures to assure that information originated within his activity is downgraded and declassified as promptly as circumstances permit.

§ 850.213 Major commands.

The Director/Chief of Security Police is responsible for:

(a) Conducting an effective classification management program encompassing classification matters dealt with in the DOD ISPR;

(b) Issuing classification guidance for programs, plans, and operations for which he has responsibility;

(c) Establishing procedures to assure that each classification guide (or other classification guidance) transmitted outside the command is coordinated with the Office of Information and approved by or coordinated with the designated classification management activity; and

(d) Establishing procedures to assure that information originated within the command is downgraded and declassified as promptly as circumstances permit.

Subpart Q—Administrative and Judicial Action

§ 850.214 Applicability.

The provisions of Chapter 14 of the DOD ISPR concerning individual responsibility, administrative actions, and judicial action apply to this part.

Subpart R—Instructions Governing Use or Code Words, Nicknames and Exercise Terms

§ 850.215 General.

Within the Air Force HQ USAF/DAAW establishes procedures for the conduct and management of the Air Force Code Word, Nickname, and Exercise Term Program. At major command and separate operating agency level, responsibility for the effective management and control of the program is that of the command document security activity, which is hereby designated as the central point for control and assignment of code words, nicknames and exercise terms within the command. Hereafter, the phrase "central control point" when used, will

apply to the command document security activity.

§ 850.216 Policy and procedure, code words.

HQ USAF/DAAW obtains blocks of code words from JCS (J-3), and reallocates these code words within the Air Force. The central control point obtains code words for command use from HQ USAF/DAAW. For joint plans and operations developed under the jurisdiction of a unified commander, and for plans and operations of a specified command, these commanders are authorized to obtain code words direct from JCS (J-3) and to assign meanings to such code words.

§ 850.217 Policy and procedure, code words, accountability.

The command central control point is accountable for allocating code words and for maintaining records of the status of each code word allocated. At HQ USAF level, these administrative responsibilities are assumed by HQ USAF/DAAW. When code words are cancelled, destroy the records in accordance with AFM 12-50.

§ 850.218 Policy and procedure, nicknames, nickname assignments.

The USAF nickname assignment concept is one nickname per project. Once a nickname is assigned, it remains as the project nickname throughout its life cycle, until its cancellation or termination. Commands or agencies participating in various phases of the project should not assign new nicknames. (Nicknames assigned before June 1, 1971 need not be cancelled solely to comply with the single name concept.)

(a) Each major user of nicknames is assigned a permanent first word, as shown in the list which follows, for use within the command or activity. These "first words" are permanently assigned to the Air Force and were derived from an allocation of letter combinations issued to the Air Force by JCS. Such allocation consists of the following letter combinations: cm *through cr, ha through* hf, lm through lr, pa through pf, rg through rl, and sa through sf. For CINC SAC, a specified command, the following letter combinations have been allocated by JCS: BS through BZ, GG through GL, KS through KZ, OG through OL, and YM through YR.

NICKNAME ASSIGNMENTS

Permanent 1st word	*Assigned to*
Cobra	HQ USAF/IN
Coin	HQ USAF/LGT
Cold	MAC
College	ADC
Colony	HQ USAF/RE
Columbine	AF AFC
Combat	HQ USAF/XOO
Comet	HQ USAF/RDSC
Comfort	AFRES
Comfy	USAFSS
Commando	PACAF
Compass	HQ USAF/RDR
Concrete	HQ USAF/PRE
Constant	HQ USAF/XOO
Contract	HQ USAF/LGX
Control	HQ USAF/IG
Cool	AAC
Copper	HQ USAF/LGP
Corona	HQ USAF/CC
Coronet	TAC
Council	HQ USAF/NB
Credible	HQ USAF/XO
Creek	USAFE
Crested	HQ USAF/PRP
Crew	AFTAC
Cross	ARPC
Hammer	AFCS
Harvest	HQ USAF/LG
Hasty	ATC
Have	AFSC
Head	HQ COMD USAF
Heavy	HQ USAF/XOX
Look	AFISC
Loyal	AU
Pacer	AFLC
Palace	HQ USAF/DP
Panel	HQ USAF/PRM
Paper	HQ USAF/DA
Pardon	HQ USAF/JA
Patch	HQ USAF/SG
Pave	HQ USAF/RDP
Peace	HQ USAF/LGF
Penny	HQ USAF/AC
Rhythm	HQ USAF/XOD
Ritzy	SAF/AA
Rivet	HQ USAF/LGM
Saber	HQ USAF/SA
Sacred	HQ USAF/HC
Safe	HQ USAF/SP
Savage	USAFSO
Scenic	USAFA
Science	HQ USAF/RD
Scope	HQ USAF/PRC
Scout	HQ USAF/PRW
Scrappy	HQ USAF/PR
Search	HQ USAF/RDG
Season	HQ USAF/RDM
Secure	AFISC/SN
Seek	HQ USAF/RDQ
Senior	HQ USAF/IGJ
Sentinel	HQ USAF/IN
Sentry	NGB/XO
Service	HQ USAF/LGS

NICKNAME ASSIGNMENTS—Continued

Permanent 1st word	Assigned to
Seven	AFOSI

(b) The second word of a nickname is selected at random, but the central control point must insure that it does not conflict with DOD ISPR 5200.1-R, Appendix D, para 2b.

(c) Forward the original and first carbon copy of AF Form 608, Nickname Assignment/Change/Cancellation Request, to the 1143 ABS/DAD, Wash DC 20330, to report the assignment, change, cancellation of a nickname and report the transfer of responsibility for a project to which a nickname has been assigned. (Specific instructions for completion are contained on the form.)

(d) A nickname is not approved for reuse for a minimum of 2 years after its cancellation. If, however, a program is cancelled or completed, and is later reactivated, the responsible agency may reactivate the original nickname and assign a roman numeral suffix, if desired, indicating the recurring use of the nickname for an identical or related program.

(e) Inquiries about the meaning of a nickname should be directed to the office or unit responsible for the program or project. This can be determined by comparing the first word of the nickname with the major user indicated in 1 above or refer to AFP 11-6, Nicknames, for a list of Air Force-assigned nicknames, their unclassified meanings, and the organization and action office to which assigned.

(f) A compilation of nicknames and meanings is unclassified. Take special care to ensure that using activities do not violate the intent of the use of nicknames.

§ 850.219 Policy and procedure, exercise terms.

Classified exercise terms will only be issued by HQ USAF/DAAW upon request by the using activity.

§ 850.220 Policy and procedure, exercise terms, exercise terms assignments.

Procedures governing the selection, assignment, and reporting of exercise terms are identical to those established for nicknames. However, when reporting an exercise term on AF Form 608, enter the phrase "This is an exercise term" in block 10. Permanently assigned first words for exercise terms allocated to the Air Force follow. HQ USAF offices and other activities not listed are assigned a permanent first word by HQ USAF/DAAW on written request.

Exercise Term Assignments

Permanent 1st word	Assigned to
Cobbler	AAC
Collect	ADC
Happy	AFAA
Half	AFAFC
Healthy	AFCS
Hectic	AFDAA
Long	AFIS
Loose	AFISC
Loud	AFLC
Painted	AFMPC
Pale	AFOSI
Paid	AFRES
Paradise	AFSC
Path	AFTEC
Right	ARPC
Ripe	ATC
Rich	AU
Cope	CINCPACAF
Salty	CINCUSAFE
School	HQ COMD USAF
Scarlet	MAC
Sea	TAC
Semester	USAFA
Sensible	USAFSO
Sensitive	USAFSS

§ 850.221 Assignment of classified meanings to code words.

(a) The Chief of Staff, USAF, and each major command is authorized to approve the use of a code word and to assign a meaning. All agencies not allocated a block of code words forward requests for assignment of a meaning to 1143 ABS/DAD.

(b) Requests for the assignment of a meaning to a code word or any change in status of code words or meanings are forwarded to the authority designated in § 850.216 of this part, and include as required:

(1) The meaning, its security classification, and coordinates in the case of geographical locations. The meaning indicates the nature of the specific plan, operation, or location to which it

applies, and, so far as practical, is limited to that information.

(2) Security classification to be assigned to the code word.

(3) Dissemination to be made of code word and meaning.

(4) Desired effective date of assignment, change, or cancellation.

(c) The meaning designated for one active code word is not assigned to any other code word.

§ 850.222 Notice of assignment, dissemination, and cancellation of code words and meanings.

(a) This notification is accomplished by 1143 ABS/DAD.

(b) The authority which assigns, changes, or cancels a code word/meaning promptly notifies 1143 ABS/DAD and includes information required by § 850.221(b).

§ 850.223 Classification and downgrading instructions.

Do not use a cancelled code word to refer to the meaning originally assigned to it. After receiving notice that the status of a code word has been changed to "cancelled", all activities promptly discontinue use of the word.

§ 850.224 Security practices.

All personnel with knowledge of code words or their meanings must be informed of security practices pertaining to code words. During any discussion involving the details of a plan or operation which reveal a classified meaning, avoid the use of the related code word unless all persons within hearing also require it. If a code word is used during any discussion, avoid any reference to the related meaning unless all persons within hearing must know it.

Subpart S—Component Implementations of DOD Issuances

§ 850.225 Corrections.

(a) AFR 205-32 is Air Force implementation of DOD 5210.8.

(b) S 5200.17 (M-2) is DIA implementation of DOD S 5200.17.

(c) USAFINTEL'S 201-1, 201-2, 201-6, 201-7 and 201-10 are Air Force implementation of DOD S 5200.17 (also see AFR 8-3).

PART 851—PROTECTION OF USAF RESOURCES

Subpart A—Background and Terminology

Sec.
851.1 Purpose.
851.3 Definitions.
851.5 Program applicability.
851.7 Command authority and responsibility.
851.9 Legal requirements.

Subpart B—Resource Protection: Aids and Equipment

851.11 Concept of protection.
851.13 Controlled areas.
851.15 Entrances to controlled areas.
851.17 Requirements for display of warning signs.
851.19 Specifications of warning signs.

Subpart C—Resource Protection: Entry and Internal Controls

851.21 Base entry policy.
851.23 Installation patrols.
851.25 Inspection of motor vehicles entering or leaving an Air Force installation.
851.27 Pilferage control.
851.29 Prevention of pilferage and vandalism.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: 40 FR 7908, Feb. 24, 1975, unless otherwise noted.

Subpart A—Background and Terminology

§ 851.1 Purpose.

This part outlines the basic objectives, concepts, and components of the USAF Resource Protection Program. It provides for a base resource protection plan and establishes a general policy for resource protection. It applies to USAF units at all levels of command.

§ 851.3 Definitions.

(a) *Aerospace operational resources.* USAF weapons systems, combat support systems, and nuclear weapons required for general and limited war operations (see attachment 1, AFM 207-1, Doctrine and Requirements for

Security of Air Force Weapons System, for complete explanation).

(b) *Armed.* Bearing a firearm.

(c) *Central depository.* An on-base facility where armed personnel are on duty at all times, to provide close and continuing supervision of containers used to temporarily store funds.

(d) *Classes of munitions.* See AFM 127-100, Explosive Safety Manual.

(e) *Controlled area.* Any specifically designated building, area or structure, containing USAF resources which are lucrative targets for theft, compromise or destruction and to which entry must be limited in order to provide more than routine protection.

(f) *Deviation.* A temporary condition where existing facilities, equipment, manpower, or procedures do not meet the standards prescribed by this part.

(g) *Duress alarm system.* A mechanical or electronic device which enables personnel on duty to alert an agency, usually security police, for the purpose of obtaining immediate assistance without arousing suspicion.

(h) *Exception.* A permanent condition where existing facilities, equipment, manpower, or procedures do not meet the standards prescribed by this part.

(i) *Firearm.* A firearm is any weapon including starter guns, which will or may, readily be converted to expel a projectile through a barrel by the action of an explosive; the frame, or receiver of any such weapon; and any firearm muffler or silencing device. This definition includes individual crew-served, and aircraft armament weapons, as well as pyrotechnic flare guns.

(j) *Firearms storage facility.* A structure approved by the installation commander for the storage of more than ten firearms.

(k) *Fund activity.* Any activity or function approved by the installation commander to handle Government funds. Branches, or subactivities of main functions (such as BX branches, club annexes, and bowling lanes), are considered separate fund activities.

(l) *Fund container.* Any receptacle which contains Government funds; this includes vaults, safes, cash boxes, or security containers.

(m) *Fund custodian.* The person designated to accept and discharge the responsibility of managing and supervising the fund activity.

(n) *Government funds.* Funds under the control of Air Force personnel that include, without being limited to, revenues and funds of the United States or any of its officers, agents, or employees.

(1) All appropriated, nonappropriated and other Government funds or negotiable instruments, under the control of Air Force personnel are considered under the purview of this part.

(2) Funds are primarily considered monies (that is, coins and currency). U.S. Postal Service stamp stocks, blank money orders, Government pay checks, and negotiable instruments (checks) marked payable to the United States Treasury or stamped "For Deposit Only," need not be counted when total amounts of funds are tallied for storage or escort purposes.

(o) *Inspection.* An analysis conducted for the purpose of establishing, planning, programming and insuring continuing compliance with protection standards.

(p) *Installation/base commander.* The designated military member responsible for the protection of USAF resources located within his area of jurisdiction.

(q) *Intrusion detection equipment (IDE).* A combination of compatible mechanical or electronic components, primarily designed and assembled to detect and annunciate an unauthorized entry or attempted entry into a protected area.

(r) *J-SIIDS.* Joint Service Interior Intrustion Detection Systems.

(s) *Major command.* Here, the term major command (or MAJCOM) also refers to a separate operating agency.

(t) *Night depository.* Fund storage container constructed as an adjunct to the base banking facility. This term includes night depositories constructed as a part of accounting and finance offices.

(u) *Nonnuclear munitions.* A general term applying to the nonnuclear explosives. It also refers to the filler of an explosive item. Incendiary materials, which are contained in some rocket motors and which will burn but

will not explode are excluded from the criteria established by this part.

(v) *Nonnuclear munitions storage area.* A designated area set aside for the storage of nonnuclear munitions. Where nonnuclear munitions are stored within nuclear storage areas, the provisions of AFMs 207-1 and 207-10, System Security Standard—Nuclear Weapons in Storage, Surface Movement and Logics Transport Status, will apply.

(w) *Nonnuclear munitions storage facility.* Any structure or location, except a designated storage area where nonnuclear munitions are regularly stored or stockpiled. Procedures for the establishment of munitions storage facilities and restrictions on explosive classes and quantities to be located therein are contained in AFM 127-100.

(x) *Personal firearm.* Privately owned firearm.

(y) *Protection.* The physical actions, aids and facilities required to safeguard USAF resources from loss, unauthorized penetration, damage or destruction.

(z) *Security police forces.* Air Force military security police personnel (AFSC 81XX/811XX/812XX) and all Department of the Air Force (DAF) civilians, contract civilians, Air Force military augmenters and foreign nationals civilian personnel who have been designated by proper authority to perform guard or police duties, within the meaning of Article 7b, Uniform Code of Military Justice, and paragraph 19a, Manual of Courts Martial 1969, revised.

(aa) *USAF physical resources.* All property, equipment, facilities and materials, classified or unclassified, within the jurisdiction, administration or custody of the United States Air Force and its units, exclusive of those aerospace operational resources described in AFR/AFM 207-1.

§ 851.5 Program applicability.

(a) *Application of program.* In the broadest sense, this program is designed to protect Air Force resources. However, it applies to non-Air Force activities tenant on Air Force installations, except where otherwise specified in inter-service support agreements or other written agreements.

(b) *Air National Guard or Air Reserve Forces.* (1) This program applies to Air National Guard (ANG) and Air Reserve Forces (ARF) bases or installations or facilities located on lands owned, leased, or otherwise under U.S. Air Force jurisdiction.

(2) Air National Guard or Air Reserve units located on lands under the jurisdiction of other services, will be guided by other services' directives on circulation procedures and posting of boundaries, which implement Department of Defense Directive 5200.8.

(3) Any Air National Guard or Air Reserve Force unit which is not located on land owned or leased by (or otherwise under the jurisdiction of) the USAF or another service, should refer to state statutes for authority to establish regulations and procedures for the protection of their resources. These directives will follow the policy and intent of this part as closely as possible. Requirements for fencing and posting may be modified by Headquarters Air National Guard and Air Reserve Forces.

(c) *Air Force units tenant to other services.* When negotiating an agreement, each Air Force tenant unit (including ANG and ARF units) on another service's installation will include as much of this part as possible. However, Air Force tenant units will comply with the terms of host-nation or service agreements.

§ 851.7 Command authority and responsibility.

The command responsibility for protection of physical resources carries with it the authority to promulgate directives necessary to accomplish this responsibility.

(a) Under Section 21 of the Internal Security Act of 1950, 64 Stat. 1005 (50 U.S.C. 797), any directive promulgated by the commander of a military installation or facility (including a directive which authorizes entry to or exit from a military installation) is legally enforceable against all persons, whether or not those persons are subject to the UCMJ.

(b) DOD Directive 5200.8 which implements 50 U.S.C. 797, delegates the authority to promulgate such directives to the commander of any major command, numbered air force, air division, wing, group or installation. Any directive promulgated by a properly designated Air Force commander is enforceable against persons subject to the UCMJ who are under that commander's jurisdiction.

(c) Although 18 U.S.C. 1382 does not specifically pertain to the protection of USAF physical resources, this law makes it a criminal act for any person to reenter an installation after being removed from it (or ordered not to reenter it) by the installation commander, or by his designee, acting on his specific instructions (Part 809a of this chapter).

§ 851.9 Legal requirements.

To have legal effect, any directive or regulation pertaining to the protection of USAF physical resources must meet the requirements in paragraphs (a) through (d) of this section.

(a) Any regulation that implements 50 U.S.C. 797 and DOD Directive 5200.8, must:

(1) Be promulgated by commanders designated by the Secretary of Defense in paragraph III.C, DOD Directive 5200.8;

(2) State specifically that the directive is issued pursuant to the Internal Security Act of 1950 (50 U.S.C. 797) and pertains to one of the subjects listed in that act;

(3) Clearly describe, locate and identify the controlled area(s) or property, and state that entrance into that area or property without the installation commander's consent is prohibited.

(4) Be posted in a conspicuous, appropriate place (for example, at the gates of the installation or at the entrance to the controlled area).

(5) Outside the United States and its possessions, a commander's authority is derived from bilateral agreements between the United States and countries concerned.

(b) Any regulation that applies only to persons who are subject to the UCMJ:

(1) Should be promulgated by an Air Force commander, as defined in paragraph III.C, DOD Directive 5200.8 (preferably, by the installation commander who is responsible for the security of the entire installation, although it is enforceable when issued by any commander who is responsible for the USAF physical resources in the area).

(2) Must clearly describe, locate, and identify the controlled area or property, and state clearly that entrance into, or use of, the controlled area is prohibited, without the consent of the commander who issued the order.

(3) Must require each controlled area to be clearly posted and the regulation be publicized to insure that all military personnel know of its existence.

(c) The installation commander (or his designee) must issue the order in writing to remove persons from the installation and direct them not to reenter (Part 809a of this chapter).

(d) Any regulation that is intended to apply to persons in an oversea area who are not subject to the UCMJ must be consistent with any formal U.S. agreement with the host nation. When a criminal offense is a violation in which the U.S. has extra-territorial jurisdiction, U.S. Federal authorities may prosecute a non-U.S. citizen offender.

Subpart B—Resource Protection: Aids and Equipment

§ 851.11 Concept of protection.

The physical protection of USAF resources encompasses measures designed to develop habits and attitudes in Air Force personnel that will enhance resource protection, by providing a reasonably secure environment, and by eliminating potential weaknesses in our protective posture.

(a) The installation commander must use a systems approach in the analysis of physical protection requirements to insure that all elements of the resource protection program are integrated and complement each other. For example, protective lighting is a greater deterrent when the lighted area is also under surveillance or observation; likewise, an alarm system is effective only when there is a force

available to respond to it. Similarly, barriers are more effective when they are patrolled and observed.

(b) The installation commander must also consider the cost of physical protection safeguards and weigh those costs against other factors, such as sensitivity, criticality, vulnerability, location, and mission of the installation, facility or resource.

(c) The type of lock to be used in protecting resources must also be planned carefully. High security padlocks and hasps must be used to protect certain sensitive resources (such as firearms, munitions, etc.).

(1) Padlocks that meet military specification MIL-P-17802 are available as medium security locks for use to secure pilferable items of significant value.

(2) Locks listed under FSN 5340-664-1323 are low security locks. Since they afford only a small degree of protection, they should never be used to secure pilferable items or articles of significant value.

§ 851.13 Controlled areas.

The establishment of controlled areas in an installation improves the total base security posture by providing security in depth and developing the security consciousness of personnel. Although an increase in security measures may cause some slowdown in operations and some inconvenience to other personnel, the use of controlled areas assists in matching protection requirements with local needs.

(a) The installation commander is authorized to establish a controlled area in order to regulate entrance to that area; he is also authorized to apply appropriate methods and degrees of control to protect Air Force physical resources from loss, theft, damage, destruction, compromise, or other hazard.

(1) A controlled area may be established in an area designated under AFR or AFM 207-1 as a restricted area, and vice-versa.

(2) When an area is to be controlled for a temporary period, the commander will specify the precise period (in days, weeks, or months). If the directive refers to an area to be permanently controlled, it will clearly specify the limits and boundaries, and the boundaries must be posted and clearly defined.

(b) Visitor control and surveillance of personnel in a controlled area requires security consciousness on the part of the personnel working in the area. In especially sensitive areas, security police personnel may be provided for entry control.

(c) The designation controlled area carriers as much of a legal and moral restriction as any physical barrier. Unless physical barriers are specifically required, the actual control may depend entirely on the security consciousness of the personnel in the designated area.

(d) Parking areas for privately owned vehicles will be established outside of controlled areas to the greatest extent consistent with operational necessity.

§ 851.15 Entrances to controlled areas.

(a) Entrances should be kept to a minimum necessary for safety, efficiency and operational control. Where required, adequate physical safeguards (such as fences, gates, and window bars) must be installed to deny entry of unauthorized persons into a controlled area.

(b) Except when a sign would tend to advertise a concealed area, controlled area signs must be posted in conspicuous and appropriate places, such as ordinary entrances, or approaches to these areas, and on perimeter fences or boundaries to the area. (These procedures will be discussed in more detail; see §§ 851.17 and 851.19.)

§ 851.17 Requirements for display of warning signs.

Warning signs will be displayed at each entrance to the installation, around the perimeter of the installation, at each entrance to a controlled area, around the perimeter of each controlled area, and displayed in such a manner that they can be easily read by persons approaching on foot or in a vehicle. The rules in paragraphs (a) and (b) of this section apply.

(a) *Controlled areas.* Maximum spacing between signs will not normally exceed 100 yards. Deviation may be

necessary when the sign would obstruct the path of most likely approach.

(b) *Base perimeters.* The commander will be guided by local statutes which govern the posting of lands. However, strategic locations such as roads that dead-end on a perimeter fence, etc., will always be posted. When the perimeter is adjacent to a populated area, the signs will not be placed more than 100 yards apart.

§ 851.19 Specifications of warning signs.

(a) The most commonly used signs are designated as AF Forms, to facilitate their posting in areas or on installations. The forms will be mounted on aluminum, sheet metal, or wood backing.

(1) The following figure depicts the design and wording for installation warning signs:

WARNING

U.S. AIR FORCE INSTALLATION

IT IS UNLAWFUL TO ENTER THIS AREA WITHOUT PERMISSION OF THE INSTALLATION COMMANDER

(SEC. 21 INTERNAL SECURITY ACT OF 1950; 50 U.S.C. 797)

WHILE ON THIS INSTALLATION ALL PERSONNEL AND THE PROPERTY UNDER THEIR CONTROL ARE SUBJECT TO SEARCH

For controlled area signs, the phrase "CONTROLLED AREA," is substituted for "U.S. AIR FORCE INSTALLATION." The background of the signs is white with the word "WARNING" in bright red. All other letters are in Air Force blue.

(2) When a sensitive program or classified material is involved, and there is a restriction on photography, a separate sign will be locally fabricated and posted in conjunction with the basic warning sign. These signs will include the wording "PHOTOGRAPHY IS PROHIBITED." The letters will be in Air Force blue on a white background. Proportionate lettering of the size used in the basic warning sign will be used.

(b) If military working dog teams are used inside or around the posted area, AF Forms 2529, Military Working Dog Notice, will be affixed directly below the basic warning sign.

(c) In a foreign country, or in CONUS, wherever the ethnic origin of the local populace indicates it would be advisable, signs will be bilingual. The signs will conform to the laws and regulations of the foreign country.

(1) Variation in wording is authorized with approval of overseas major commands, based on nation-to-nation agreements, status of forces agreements, local laws, etc.

(2) In an area where there is a high degree of illiteracy, a commonly accepted danger or warning symbol will be posted on the signs.

(3) These signs will be locally fabricated or procured and should, to the extent possible, conform with color and design of the basic sign facings.

(d) Size and use for the AF Forms are:

(1) AF Form 2523, Installation Warning Sign (2 ft x 1 ft); used to post area boundaries.

(2) AF Form 2524, Installation Warning Sign (4 ft x 2 ft); used to post personnel and vehicle entry points.

(3) AF Form 2525, Controlled Area Sign (2 ft x 1 ft); used to post area boundaries and buildings.

(4) AF Form 2526, Controlled Area Sign (4 ft x 2 ft); used to post personnel and vehicle entry points.

(e) Any sign that is already in use on December 21, 1973, which differs in size or color, but which conforms basically to the required language, will continue to be used until it becomes unserviceable.

Subpart C—Resource Protection: Entry and Internal Controls

§ 851.21 Base entry policy.

(a) The installation commander will determine the degree of control required over personnel entering or leaving the installation (that is, checking identification credentials, registering visitors, etc.).

(1) As a basic policy, he should avoid placing any unnecessary restrictions against personnel visiting the installation, since a system of complex time-consuming entry controls at perimeter gates serves few useful purposes. How-

ever, under certain conditions and circumstances, a complete lack of entry controls can have a detrimental effect on security of the installation.

(2) In determining the stringency of the controls to be used, the commander will consider the local environment; the security priority assigned operational resources and the threat thereto (see AFM and AFR 207-1); pilferage problems and base features that might present significant hazards to public safety.

(3) These policies are not intended to infringe upon normal domestic or social activities of families residing on the base, or hamper or preclude private visits, or hinder public visits during officially sanctioned events. Nevertheless, more stringent controls are required during emergency operations.

(b) The minimum controls in paragraphs (b)(1) through (b)(6) of this section should be applied at every Air Force installation.

(1) The installation must be fenced around the perimeter (See AFM 86-2, Standard Facility Requirements).

(2) The installation must be posted with warning signs at all perimeter gates and along the perimeter fenceline.

(3) The installation must be patrolled internally by security police forces (see § 851.23).

(4) If the installation meets at least one of the characteristics in paragraphs (b)(4)(i) through (b)(4)(iv) of this section, security police personnel must man the base perimeter entry points (gates) when the gates are open for public use.

(i) Routinely possesses or supports on-base aerospace operational resources of security priority A or B as explained in AFR/AFM 207-1.

(ii) Has excessive or serious pilferage problems.

(iii) Is confronted by a highly significant and unique security threat.

(iv) Has features or activities that are significant public safety hazards, when adequate protection cannot be afforded by controlled areas.

(5) If the installation requires security police manning of perimeter entry points, it will operate only the minimum number of perimeter entry gates required for operational needs. Each special purpose gate will be opened, manned, and secured (locked) by trained contractor or owner-user personnel. All non-essential gates will be closed during periods of low volume traffic.

(6) If the installation does not meet the characteristics of paragraph (b)(4) of this section, the main gate must be manned by information-security police on a 24-hour basis. All non-essential gates will be closed during low volume traffic.

§ 851.23 Installation patrols.

The base protection program includes installation patrols as well as patrols authorized in weapons system security (207 series) directives, to respond to incidents immediately as they occur, and to provide some deterrence to criminal activity.

(a) The number of patrols required depends on local circumstances and on the size of the installation, but generally, each installation will have at least one 24-hour per day patrol.

(b) More may be needed, depending on the off-base housing area traffic control requirements, or the need to protect high value or essential resources that are pilferable. The major command will determine the necessity for base patrols at small detachments or sites.

§ 851.25 Inspection of motor vehicles entering or leaving an Air Force installation.

A commander may direct the inspection of any vehicle entering or departing an installation under his jurisdiction, whether the owner or operator is military or civilian.

(a) Vehicles to be inspected will be selected on an impersonal basis, using an arbitrary formula—such as "every other car." That is, individual cars should not be singled out for inspection unless there is reason to believe that a specific vehicle may be carrying contraband items.

(b) The refusal by the owner or driver to submit to this inspection on entering an installation is legal cause to deny the vehicle entry. Physical force may not be used to enter a vehi-

cle when permission to inspect has been denied. However, the commander may detain the vehicle and deny exit until the individual complies, or he may deny future on-base driving privileges, including cancellation of base entry for any vehicle owned or operated by the individual.

(c) If the installation commander has reasons to believe Government property is contained in the vehicle without proper authority, which cannot otherwise be recovered, he may, after consultation with the nearest U.S. Attorney, cause the locked compartments to be forced open.

§ 851.27 Pilferage control.

(a) *Use of term.* Pilferage involves the deliberate taking of property through circumvention of human controls and physical security measures for personal gain. (Like the terms steal, theft, larceny, it implies taking without authority, any quantity of material, or any item of monetary value. For example, items most often pilfered include tools, small arms and ammunitions, bulk explosives, food stuffs, clothing, medical supplies, radios, flashlights and batteries, fuels of all kind, and other small, easily concealed items.) Pilferage can be reduced and controlled through implementation of logical and well planned protection techniques, which should be used particularly for sensitive or high value items.

(b) *Responsibilities.* (1) The installation commander has overall responsibility for the reduction or elimination of pilfering.

(2) The owning organization is accountable and responsible for resources within that unit. Adequate controls and safeguards must be provided by the unit commander to insure protection of property.

(3) The Chief of Security Police will assist in providing protective recommendations to reduce and control susceptibility to pilferage of the total facility.

(c) *Conditions conducive to pilferage.* (1) While there are numerous factors which contribute to, or are conducive to pilferage, the primary factors fall within two categories: inadequate physical security measures and inadequate or insufficient utilization of human resources in the areas of management, training, discipline, responsibility, etc.

(2) Of the two categories, the physical security aids are the more tangible and more easily corrected. The human resource factors are more susceptible to breakdown, fluctuation, inadequacy and neglect.

(i) Management or top supervisory personnel must implement a proper plan of organization and adequate methods to measure safeguard procedures. They must also control and insure accuracy and reliability of accounting procedures and encourage strict compliance with prescribed policies.

(ii) Intermediate supervisors and other personnel must help to protect pilferable resources. For example, frequent, unannounced inspections, including an accounting and inventory of records, help to prevent pilferage. Also, the opportunity to pilfer should be reduced by making sure that personnel who have access to stock records do not also have unmonitored access to merchandise.

§ 851.29 Prevention of pilferage and vandalism.

In a base or housing area where there is a high level of pilferage or vandalism, the commander may supplement normal security police patrols in one or more of the ways in paragraphs (a) through (f) of this section.

(a) Stakeouts by security police personnel.

(b) Use of unmarked Government vehicles by security police.

(c) Foot patrol(s) by security police.

(d) Patrol by military working dog teams.

(e) Use of TDY security police.

(f) Refer to Army Air Force Exchange Service (AAFES) Manual 16-1, for additional guidance on preventing shoplifting and pilferage from base exchange and commissaries.

PART 852—MOTOR VEHICLE TRAFFIC SUPERVISION

Sec.

852.1 Purpose.
852.2 Definitions.
852.3 Obedience and effect of traffic regulations.
852.4 Traffic signs, signals and markings.
852.5 General rules and restrictions.
852.6 Maximum speed limits.
852.7 Driving on right side of roadway; overtaking and passing; and following.
852.8 Turning and signaling.
852.9 Right-of-way.
852.10 Parking.
852.11 Operator's responsibility.
852.12 Rules for bicycle operators.
852.13 Pedestrian rights and duties to conform with the Mississippi Uniform Vehicle Code.
852.14 Off-limit areas on Keesler Air Force Base.
852.15 Prohibited areas of Keesler AFB.

AUTHORITY: 10 U.S.C. 8012; 50 U.S.C.797.

SOURCE: 42 FR 42684, Aug. 24, 1977, unless otherwise noted.

§ 852.1 Purpose.

This part establishes procedures for the registration, operation, and parking of motor vehicles, bicycles, boats, trailers, and similar towed items. It implements provisions of AFR 125-14, Motor Vehicle Traffic Supervision, and AFR 125-15, Motor Vehicle Registration and Related Requirements, and applies to persons operating, registering, or parking any of the aforementioned items on Keesler Air Force Base, including housing areas and annexes. This part also applies to tenants. It is applicable to both military and civilian personnel. Violations of the provisions of this part may be cause for disciplinary action by military authorities for violation of Article 92, UCMJ, and by appropriate civilian and/or federal authorities.

§ 852.2 Definitions.

(a) "Vehicle" means every device, in, upon, or by which any person or property is or may be transported or drawn upon a roadway, except devices moved by human power or used exclusively upon stationary rails or tracks.

(b) "Motor Vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(c) "Motorcycle" means every motor vehicle rated at 1 or more horsepower, having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground but excluding a tractor.

(d) "Fractional Horsepower Cycle" means every motor vehicle rated under 1 horsepower having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground but excluding a tractor.

(e) "Authorized Emergency Vehicle" means every vehicle authorized to be such by the Base Commander. The squadrons authorized emergency vehicles are: Security Police, Fire Department, Hospital, and Disaster Prepredness.

(f) "School Bus" means every motor vehicle owned by a public or government agency and operated for the transportation of children to or from school, or privately owned and operated for compensation for the transportation of children to or from school.

(g) "Law Enforcement Officer" means every Security Policeman authorized to direct or regulate traffic or to make apprehensions/detentions for violations.

(h) "Driver" means every person who drives or is in actual physical control of a vehicle.

(i) "Owner" means any person who holds the legal title of a vehicle; in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this regulation.

(j) "Person" means every natural person, firm co-partnership, association or corporation.

(k) "Pedestrian" means any person afoot.

(l) "Traffic" means pedestrians, ridden or herded animals, vehicles,

streetcars, and any other conveyances either singly or together while using any street or roadway for purposes of travel.

(m) "Street or Roadway" means any way or place of whatever nature designed and used for purposes of vehicular traffic.

(n) "Laned Roadway" means any roadway which is divided into three or more clearly marked lanes for vehicular traffic.

(o) "Sidewalk" means any way or place adjacent to a roadway and intended for the use of pedestrians.

(p) "Driveway" means every roadway or street designed specifically for access to particular building or group of buildings.

(q) "Through Street or Roadway" means every street or roadway or portion thereof at the entrances to which vehicular traffic from intersecting streets or roadways is required by law to stop before entering or crossing the same.

(r) "Crosswalk" means that portion of a roadway or street ordinarily included within the prolongation or connection of the lateral lines of sidewalks at intersections, or any portion of a roadway or street distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(s) "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines, or, if none then the lateral boundary lines of the roadways which join one another at or approximately at, right angles, or the area within which vehicles traveling upon different roadways joining at any other angle may come in conflict.

(t) "Official Traffic Control Devices" means all signs, signals, markings, and devices not inconsistent with this regulation placed or erected by authority of the Base Commander for the purpose of regulating, warning, or guiding traffic.

(u) "Official Traffic Control Signal" means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.

(v) "Right-of-Way" means the privilege of the immediate use of the highway.

(w) "Stop", when required, means the complete cessation from movement.

(x) "Stop, Stopping or Standing", when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a Security Policeman or of a traffic control sign or signal.

(y) "Park", when prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

§ 852.3 Obedience and effect of traffic regulations.

(a) It is unlawful and, unless otherwise declared in this part with respect to particular offenses, it is a misdemeanor for any person to do any act forbidden by this part or to fail to perform any act required in this part, and upon conviction thereof said person shall be liable to a fine of not to exceed $5,000, or imprisonment for not more than one year, or both.

(b) No person shall willfully fail or refuse to comply with any lawful order or direction of any Security Policemen invested by law with authority to direct, control, or regulate traffic.

§ 852.4 Traffic signs, signals and markings.

(a) The Uniform System of Traffic Control Devices adopted by the Commissioner of Public Safety for the State of Mississippi in accordance with Section 63-3-301 of the Mississippi Code of 1972 is hereby adopted as the system of traffic control devices for use upon Keesler Air Force Base.

(b) The Base Commander or his designee shall place and maintain such traffic control devices upon all base streets and roadways as he shall deem necessary to indicate and to carry out the provisions of this part, or to regulate, warn or guide traffic.

(c) Whenever traffic is controlled by traffic control signals exhibiting different colored lights successively one at a time, only the following colors

shall be used, and said lights shall indicate as follows:

(1) *Green alone.* (i) Vehicular traffic facing the signal may proceed straight through or turn right or left, unless a sign at such place prohibits either such turn. However, vehicular traffic shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection at the time such signal is exhibited.

(ii) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) *Yellow alone when shown following the green signal.* (i) Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at the intersection, but if such stop cannot be made in safety, a vehicle may be driven cautiously through the intersection.

(ii) Pedestrians facing such signal are thereby advised that there is insufficient time to cross the roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(3) *Red alone.* (i) Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at an intersection or at such other point as may be indicated by a clearly visible line and shall remain standing until green is shown alone.

(ii) No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(iii) After coming to complete stop, a vehicle may turn right only if turn can be made with reasonable safety to both crossing vehicles and pedestrians and if turn is not prohibited by a sign.

(4) *Red with green arrow.* (i) Vehicular traffic facing such signal may cautiously enter the intersection only to make movement indicated by such arrow, but shall not interfere with other traffic or endanger pedestrians lawfully within a crosswalk.

(ii) No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(d) Whenever flashing red or yellow signals are used they shall require obedience by vehicular traffic as follows:

(1) *Flashing red.* When a red lens is illuminated by rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at the limit line when marked, and the right to proceed shall be subject to the rules applicable after making a stop at a stop-sign.

(2) *Flashing yellow.* When a yellow lens is illuminated by rapid intermittent flashes, drivers of vehicles may proceed through the intersection or pass such signal only with caution.

(e) No driver of a vehicle shall disobey the instructions of any official traffic control device placed in accordance with the provisions of this part, unless at the time otherwise directed by a Security Policeman.

(f) The driver of an authorized emergency vehicle when responding to an emergency call, upon approaching a red or stop signal or any stop-sign, shall slow down, as necessary for safety, but may proceed cautiously past such red or stop-sign or signal. At other times drivers of authorized emergency vehicles shall stop in obedience to a stop-sign or signal.

§ 852.5 General rules and restrictions.

(a) No person will:

(1) Place, maintain, or display any unauthorized signs, signals, markings, or devices that are similar, purport to be, or are an imitation of an official traffic control device, sign or signal. Persons will not erect signs, devices, etc., that interfere with, hide, or reduce the effectiveness of any traffic control sign, signal, or other device, or block the view of drivers and become a hazard. Dempsey dumpster containers will not be placed within 20 feet of an intersection.

(2) Attempt to or alter, deface, knock down, damage or remove any traffic control device, or official inscription, shield, or insignia or other parts thereof without lawful authority.

(b) The driver will:

(1) Drive at a speed that is safe and prudent with regard to actual existing conditions.

(2) Have his vehicle under control at all times to avoid endangering or col-

liding with another person, vehicle, or other property.

(3) Drive at a reduced speed when approaching or going around a curb, entering or crossing an intersection, or when a hazard exists due to pedestrians, other traffic, or road/weather conditions.

§ 852.6 Maximum speed limits.

Except as in § 852.5(b)(1), the following are the maximum speed limits and apply to all vehicles except emergency vehicles respondilng to emergency calls:

(a) Base streets and roadways—25 mph unless otherwise posted.

(b) Driveways and parking lot areas—10 mph.

(c) Family housing area—20 mph unless otherwise posted

§ 852.7 Driving on right side of roadway; overtaking and passing; and following.

(a) Upon all roadways of sufficient with a vehicle shall be driven on the right half of the roadway, except as follows:

(1) When overtaking and passing an other vehicle proceeding in the same direction under the rules governing such movement.

(2) When the right half of roadway is close to traffic while under construction or repair.

(3) Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon.

(4) Upon a roadway designated and signed-posted for one-way traffic.

(b) Whenever roadway has been divided into three or more clearly marked lanes for traffic, the following rules in addition to all others consistent herein shall apply:

(1) A vehicle shall be driven as nearly a practical entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(2) A vehicle shall not be driven in the center lane upon a roadway which is divided into three lanes except when:

(i) Overtaking and passing another vehicle when the roadway is clearly visible and such center lane is clear of traffic within a safe distance.

(ii) Such vehicle is in preparation for a left turn.

(iii) Such center lane is at the time allocated exclusively to traffic moving in the direction such vehicle is proceeding and is sign-posted to give notice of such allocation.

(3) Official signs may be erected directing slow moving traffic to use a designated lane or allowing specified lanes to traffic moving in the same direction, and drivers of vehicles shall obey the directions of every such sign.

(c) Upon a roadway designated and sign-posted for one-way traffic, a vehicle shall be driven only in the direction designated; and a vehicle passing around a rotary traffic island shall be driven only to the right of such island.

(d) Drivers of vehicles proceeding in opposite directions shall pass each other to the right. Upon roadways having width for not more than one lane of traffic in each direction, each driver shall give to the other at least one-half of the main travel portion of the roadway as nearly as possible.

(e) The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations exceptions and special rules otherwise provided in the article.

(1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

(f) No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direc-

tion or any vehicle overtaken. In every event, the overtaking vehicle must return to the right-hand side of the roadway before coming within 100 feet of any vehicle approaching from the opposite direction.

(1) No vehicle shall, in overtaking and passing another vehicle or at any other time, be driven to the left side of the roadway under the following conditions:

(i) When approaching the crest of a grade or upon a curve in the highway where the driver's view along the highway is obstructed.

(ii) When approaching within 100 feet of or traversing any intersection or railroad grade crossing.

(iii) When official signs are in place directing that traffic keep to the right, or a distinctive centerline is marked, which distinctive line also directs traffic as declared in the sign manual adopted by the Mississippi State Highway Commission and by reference by Keesler Air Force Base.

(g) The driver of a vehicle:

(1) May overtake and pass upon the right of another vehicle which is making or about to make a left turn.

(2) May overtake and, allowing sufficient clearance, pass another vehicle proceeding in the same direction either on the left or right on a roadway with unobstructed pavement of sufficient width for four or more lanes of moving traffic when such movement can be made in safety. No person shall drive off the pavement or upon the shoulder of the roadway overtaking or passing on the right.

(3) On a roadway or street upon meeting or overtaking any school bus which has stopped on the roadway or street for the purpose of receiving or discharging children shall come to a complete stop and shall not proceed until the children have crossed the street or roadway and the school bus has proceeded in the direction it was going.

(4) This section shall be applicable only in the event the school bus shall bear upon the front and rear thereon a plainly visible sign containing the words "School Bus" in letters not less than four inches in height which can be removed or covered when the vehicle is not in use as a school bus.

(h) It shall be unlawful for a driver of any truck or other vehicle to drive in or near the center of any roaday for a distance of more than 200 yards, or at any time to refuse to turn to the right in order that a driver desiring to pass said truck or other vehicle, may drive at a higher legal rate of speed.

(i) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and condition of the roadway.

§ 852.8 Turning and signaling.

(a) The driver of a vehicle intending to turn at an intersection shall do so as follows:

(1) Both the approach for a right turn and the turn itself shall be made as close as practical to the right-hand curb or edge of the roadway.

(2) The approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof, and after entering the intersection, the left turn shall be made so as to leave the intersection to the right of the centerline of the roadway being entered.

(3) The approach for a left turn from a two-way street onto a one-way street shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of such centerline where it enters the intersection. A left turn from a one-way street into a two-way street shall be made by passing to the right of the centerline of the street being entered upon leaving the intersection. When markers, buttons, or signs are placed within or adjacent to intersections, and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons, or signs.

(b) No vehicle shall be turned so as to proceed in the opposite direction (U-Turn) except at intersections on double-lane drives separated by median islands and only when such

turn can be made in complete safety and without obstructing traffic.

(c) No person shall turn a vehicle from a direct course upon a roadway or street unless and until such movement can be made with reasonable safety, and then only after giving a clearly audible signal by sounding the horn, if any pedestrian may be affected by such movement or after giving an appropriate signal in the manner provided in this part, in the event any other vehicle may be affected by such movement.

(d) A signal of intention to turn right or left shall be given continuously for a reasonable distance before turning.

(e) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided in this regulation to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

(f) Signals required in this part shall be given either by means of the hand and arm or by a signal lamp or device of a type approved by the Mississippi Department of Public Safety. When a vehicle is so constructed or loaded that a hand and arm signal would not be visible both to the front and rear of such vehicle, then said signals must be given by such a lamp or device.

(g) All signals given by hand and arm shall be given from the left side of the vehicle in the following manner, and such signal shall indicate as follows:

(1) Left turn—Hand and arm extended horizontally.

(2) Right turn—Hand and arm extended upward or moved with a sweeping motion from the rear to the front.

(3) Stop or decrease speed—Hand and arm extended downward.

§ 852.9 Right-of-way.

(a) Except as may otherwise be provided in this part, the driver of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection from a different roadway. Except as may otherwise be provided in this part, when two vehicles enter an intersection from different roadways at the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

(b) The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard. However, said driver, having so yielded and having given a signal when and as required, may make such left turn, and the drivers of all other vehicles approaching the intersection from said opposite direction shall yield the right-of-way to the vehicle making the left turn.

(c) The driver of a vehicle shall stop as required by this part at the entrance to a through street or roadway and shall yield the right-of-way to other vehicles which have entered the intersection from said through street or roadway as to constitute an immediate hazard. However, said driver having so yielded may proceed, and the drivers of all other vehicles approaching the intersection on said through street or roadway shall yield the right-of-way to the vehicle so proceeding into or across the through street or roadway.

(d) The driver of a vehicle shall likewise stop in obedience to a stop-sign as required by this part at an intersection where a stop-sign is erected at one or more entrances thereto, although not a part of a through street, and shall proceed cautiously, yielding to vehicles not so obliged to stop which are within the intersection or approaching so closely as to constitute an immediate hazard; but may then proceed.

(e) The driver of a vehicle about to cross or enter a street or roadway from a driveway shall yield the right-of-way to all vehicles approaching on said street or roadway.

(f) Upon the immediate approach of an authorized emergency vehicle, when the driver is giving audible signal by siren, exhaust whistle, or bell, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has

passed, except when otherwise directed by Security Policeman.

(g) Marching formations have the right-of-way over all except emergency vehicles on official call. Road guards will control vehicle traffic for marching formations. Vehicles traveling in the same direction as the troop formation will not approach the formation closer than 50 feet and will not pass the formation unless signalled to do so by personnel in charge. Vehicles traveling in the opposite direction may pass the formation at a speed not to exceed 10 mph.

(h) Vehicles will yield the right-of-way to pedestrians crossing a roadway within a marked crosswalk or at any intersection. When a vehicle has yielded to a pedestrian, vehicles approaching from the front or rear will not pass the stopped vehicle.

(i) Golf cart operators will stop the cart, look in both directions, assure he has proper clearance, and use extreme caution when attempting to cross a roadway. Golf cart operators will yield to all traffic.

§ 852.10 Parking.

Authorized parking is designated by painted white lines or signs. Yellow or red lines indicate no parking areas.

(a) Vehicles will park within the marked area of the parking space.

(b) Crossing the approaching traffic lane for the purpose of parking in an angle/parallel parking slot intended for approaching traffic is prohibited.

(c) Backing into or pulling through parking spaces, other than parallel parking spaces, to park or change directions is prohibited except for authorized emergency vehicles.

(d) No person will leave a vehicle unattended with the engine running. He will lock the ignition and remove the key; if on a grade, he will set the emergency brake and turn the wheels to prevent the vehicle from rolling.

(e) Reserve parking spaces for handicapped personnel will be based upon a doctor's statement attesting to disability and be approved by the Traffic Coordinating Committee (TCC). The TCC may designate general handicapped parking spaces at service facilities.

(f) The TCC will review and approve requests for parking spaces for government vehicles in work functional areas, loading zones, and time parking spaces for customers.

(g) The TCC will plan, develop, coordinate, and monitor parking and traffic control. Requests for reserved parking spaces must be reviewed by the TCC who will approve/disapprove each request and furnish a reply to the agency/individual concerned.

(h) Car-Pool parking: Car-pool parking areas reserved for personnel with bona fide car-pool cards. Display cards inside of windshield.

(1) Squadrons will obtain car-pool cards from SPAR and complete KTTC Form 23, Car-Pool Application (original and one copy). Forward original to SPA and file copies numerically within the squadron. When individuals are reassigned/discharged, return car-pool card and KTTC Form 23 to SPA.

(2) Individuals will obtain car-pool cards from squadron orderly room.

(i) The BX and Commissary parking lots are restricted to two-hour customer parking.

(j) Parking (other than four-wheeled vehicles):

(1) Two-wheel vehicles will not use regular parking spaces unless two-wheeled parking spaces have not been provided. Additionally, two-wheel vehicles may park at the end of angle parking rows within the lines.

(2) Boats, trailers, and campers, 18 feet in length or less, may be parked in carports, driveways, or patios. Those exceeding 18 feet in length, or those less than 18 feet without previously mentioned facilities, will be parked in designated base storage areas, except for loading/unloading (not to exceed 48 hours) at which time they may park in housing areas.

(3) Boats, trailers, or campers will not be parked in the streets next curbs, except for loading/unloading. They will never be parked on the grass.

(4) Personnel will not block up trailers parked in housing areas or install in a permanent or semipermanent manner.

(5) Secure any of the above or any other towed item so that no safety hazard is present.

(6) The parking facility for the above is available for base personnel on a "first-come, first-serve" basis. Individuals are responsible for the maintenance (cutting grass, policing area, etc.) of their assigned slot. Upon reassignment, separation trade of sale etc., individual is responsible to clear his assigned slot through SPAP. Failure to comply with any provisions of this paragraph will result in terminating the assigned slot. Further, items stored with this area that give appearance of not being used or moved within 120 days will be considered abandoned and will be disposed of in accordance with directives of the installation.

(7) Storage of POVs in the above parking area is prohibited. (Abandoned vehicles may be stored in this area at the direction of the Chief, Security Police).

(k) Stopping or parking a vehicle on any of the following areas is prohibited except when necessary to avoid conflict with other traffic or in compliance with directions of security policeman or traffic control device:

(1) In nondesignated areas.

(2) On sidewalks.

(3) On grass or shoulders or roadway.

(4) In front of a driveway or service drive.

(5) Within 10 feet of a hanger or maintenance dock.

(6) On a crosswalk or within 20 feet of a crosswalk at an intersection.

(7) Within an intersection.

(8) Within 15 feet of a fire hydrant or building, except when otherwise designated.

(9) On the left side of roadway, except on one-way streets. (This does not apply in housing areas).

(10) Adjacent to a yellow curb.

(11) Any place where prohibited by officials signs.

§ 852.11 Operator's responsibility.

(a) Persons of any age that are not appropriately licensed will not operate any motor vehicle.

(b) Persons will not knowingly cause or permit a person without a license or under the influence of alcohol or drugs to operate a vehicle.

(c) Persons will not move a vehicle until it can be done with reasonable safety. Start in such a manner as to prevent spinning of wheels, throwing of gravel, or excessive revving of the engine.

(d) No driver will, other than the driver of an official vehicle responding to an alarm, follow any fire vehicle closer than 500 feet, nor stop or park within one block of the fire vehicle when it is being operated in response to an alarm. Drivers will not drive across an unprotected fire hose without the consent of the fire official in charge.

(e) Personnel will not operate privately owned vehicles on the ramp in front of Base Operations or any other portion of the flight line normally used for the movement or parking of aircraft.

(f) Drivers will, when necessary to insure safe operation, give audible warning with their horn. They will not use horn otherwise.

(g) Vehicles will not transport more passengers than the manufacturer's designated capacity.

(h) Do not affix a decal, inspection sticker, or similar item to the windshield or window so as to obstruct the vision of the driver.

(i) Do not throw litter from any vehicle.

(j) Emergency red or blue lights will not be installed or used on any privately owned vehicle without written approval from the Base Commander.

(k) No operator will allow his vehicle to tow or push, or to be towed or pushed by, another vehicle except by use of a properly secured A-frame tow bar.

(l) The wearing of stero headphones, headsets, earphones, or any other item (except for hearing aids use to improve hearing) which would interfere with normal hearing of a motor vehicle operator, is prohibited.

(m) Viewing television by the motor vehicle operator is prohibited.

(n) Use headlights during inclement weather, limited visibility, and hours of darkness.

(o) Children under 10 years of age will not remain unattended in any vehicle.

(p) Inoperative vehicles will not be on base more than 24 hours except in the Hobby Shop.

(q) Modification of vehicles "lift and/or drop" that exceeds three inches in length (front or rear) is prohibited. Violations will be determined by a measurement of either bumper (bottom) to ground level. At no time will the gasoline tank be exposed by virtue of lift/drop modifications.

(r) Safety belt use is mandatory for all military personnel and civilian employees while operating or riding in vehicles on base. Off base, in all vehicles being used in government business, i.e., change of station, TDY, etc., IAW AFR 127-5.

(s) Major vehicle maintenance on base streets and parking lots is prohibited.

(t) Operation of Two and Three-Wheeled Motor Vehicles:

(1) Persons attached or assigned to KAFB operating such motor vehicles will: (i) Wear an approved safety helmet and shatterproof eye protection (applies to riders also). Ref: AFR 127-5.

(ii) Operate vehicle with lights on at all times.

(iii) Not carry passengers unless the vehicle is specifically designed to carry more than one person.

(2) Visitors and personnel with unregistered two and three-wheeled motor vehicles will comply with § 852.11(t). Assigned/attached personnel will comply with the 72-hour registration requirement as outlined in AFR 125-14.

(3) Fractional Horsepower cycles will not be registered on Keesler AFB, however, the wearing of an approved safety helmet and shatterproof eye protection are required. Ref: AFR 125-14, ATC Sup 1, para 3-2b.

(u) Defective Vehicles: Security Police will issue traffic citations to persons operating a defective motor vehicle in violation of the Mississippi Highway Patrol Inspection Station Regulation.

§ 852.12 Rules for bicycle operators.

Bicycle operators will:

(a) Obey all traffic signs and regulations.

(b) Keep to the right side of the roadway.

(c) Ride single file and at a safe distance behind the vehicle ahead.

(d) Stop to assure safe clearance before riding out of driveways, alleys, or from behind parked cars.

(e) Dismount and walk bicycle across heavily traveled roadways.

(f) Signal intention to turn.

(g) Carry parcels and books in a basket or luggage carrier.

(h) Never ride two on a bicycle; passengers interfere with vision and control.

(i) Never hitch onto other vehicles.

(j) Not stunt on streets and highways.

(k) Have a white light on front and red light or reflector on rear of bicycle and wear white or light-colored clothing at night. Ref: AFR 127-101, 4 Sep 74, and Change 1, 13 Jun 75, Paras 13-14f(1).

(l) Keep bicycle in good condition.

(m) Park bicycle in a safe and proper place, standing upright.

(n) If children under 10 years of age, not ride bicycles on Ploesti Drive unless accompanied by adults.

§ 852.13 Pedestrian rights and duties to conform with the Mississippi Uniform Vehicle Code.

(a) Pedestrians crossing between intersections will yield the right-of-way to vehicles and cross with caution. Pedestrians will comply with the traffic control signals and not step, walk, or run suddenly from the curb or other places of safety into the path of a vehicle that is so close that it is impossible for the driver to yield safely; will not walk upon or adjacent to a roadway where sidewalks are provided. When sidewalks are not provided, walk only on the left side of the roadway or road shoulder approaching traffic and cross streets at crosswalks or intersections when within 25 yards.

(b) Hitchhiking is prohibited.

(c) Pedestrians will not cross between or through units of marching troops after the column has started moving.

(d) All pedestrians must use the sidewalk along the roadway of Polesti Drive to and from the Triangle Area

to Gate No. 7. Pedestrians will not cross any portion of the runway due to the landing and takeoff of aircraft. The runway and the clear zone at the ends of the runway approach are part of the airdrome controlled area is established under AFR 125-37.

(e) Pedestrians will not wear radio headsets while traversing the thoroughfares of Keesler AFB.

§ 852.14 Off-limit areas on Keesler Air Force Base.

The following areas are off limits to dependents and military personnel (except in the performance of duties) on Keesler AFB, including annexes and noncontiguous housing areas:

(a) Construction sites, trenches, and excavation work in progress.

(b) Water towers, radar, radio masts and antennas; elevated platforms; utility poles and junction cabinets above, on, and below ground level.

(c) Rock, shell, sand piles, and other construction materials stacked in open storage areas.

(d) Emergency operation areas of police and fire service.

(e) All sites posted "Off Limits" by authority of the Base Commander or Base Civil Engineer.

(f) Fuels Storage Area and Liquid Oxygen (LOX) Storage Area.

§ 852.15 Prohibited areas of Keesler AFB.

Entrance into the following areas without the Commander's consent is prohibited:

Area	Acreage	Jurisdiction
Main base	1,239.88	Exclusive.
Bay Ridge	68.20	Exclusive (east 14.35 acres).
		Proprietary (west 53.85 acres).
Oak Park	63.57	Exclusive.
Falcon Park	64.39	Do.
Shadow Lawn	20.45	Do.
Harrison Court	43.64	Do.
Annex 1 (Thrower Park).	57.38	Exclusive (east 40 acres)
		Proprietary (west 17.38 acres)
Maltby Hall	24.50	Proprietary.
Radio Beacon (north Biloxi).	12.00	Exclusive.
Small arms range.	1,938.00	Concurrent (1,874 acres under permit).
Track K-1 (adjoins Falcon Park).	23.20	Exclusive.
Tract K-2 (adjoins Bay Ridge).	6.30	Do.

PART 853 [RESERVED]

SUBCHAPTER F—AIRCRAFT

PART 855—USE OF UNITED STATES AIR FORCE INSTALLATIONS BY OTHER THAN UNITED STATES DEPARTMENT OF DEFENSE AIRCRAFT

Sec.
855.1 Purpose.

Subpart A—General Provisions

855.10 Policy.
855.11 Definitions.
855.12 Aircraft exempt from this part.

Subpart B—Unapproved Landings

855.20 Unapproved landings.
855.21 Emergency landings.
855.22 Unauthorized landings.

Subpart C—Civil Aircraft Use

855.30 Conditions for use of USAF installations.
855.31 Types of civil use.
855.32 Approving authority.
855.33 Civil aircraft user requests.
855.34 Processing procedure of the approving authority.
855.35 Insurance requirements.
855.36 Landing, parking, and storage fees.
855.37 Purchase of aviation fuel and oil.
855.38 Supply and service charges.

Subpart D—Foreign Government Aircraft

855.40 General information.
855.41 Actions required by foreign government aircraft users.
855.42 Processing procedures of the approving authority.
855.43 Aviation fuel and oil purchases.
855.44 Supply and service charges.

Subpart E—Joint Use of a USAF Installation

855.50 Requests for joint use.

AUTHORITY: 10 U.S.C. 8012, 49 U.S.C. 1507 (a) and 1508.

SOURCE: 39 FR 10124, Mar. 18, 1974, unless otherwise noted.

§ 855.1 Purpose.

This part establishes the responsibilities and describes the procedures for the use of United States Air Force (USAF) installations by aircraft other than United States Department of Defense aircraft pursuant to sections 1107 and 1108 of the Federal Aviation Act of 1958 (sections 1507(a) and 1508, Title 49, United States Code; Pub. L. 85-726).

Subpart A—General Provisions

§ 855.10 Policy.

USAF installations are established to support the USAF mission for national defense. This part carries the force of law, and exceptions are not authorized without prior approval of HQ USAF/PRPO.

(a) *The Air Force.* (1) Determines whether use of its installations is compatible with current and programmed military activities.

(2) Normally authorized use of its installations for aircraft operated for official Government business only. However, if exceptional substantiated reasons exist, other types of use may be authorized. When applicable, the requested airfield must be certified under Part 139 of the Federal Aviation Regulation (FAR). Certification is required for USAF airfields before use by the Civil Aeronautics Board (CAB) certified air carriers with commercially ticketed passengers aboard. Exceptions to the certification requirement are (i) emergencies, (ii) weather alternate, (iii) air taxi operations, and (iv) air carrier operations using USAF airfields in performance of contract work exclusively for the military.

(3) Subject to the laws and regulations of the United States or the country in which the USAF installation is located, acts as clearing authority for its installations where international civil aviation operations are authorized under International Civil Aviation Organization (ICAO) agreements.

(4) Reserves the right to suspend any operation inconsistent with national defense interests or any other requirement when deemed in the best interest of the Air Force.

(5) Terminates any authorization to use a USAF installation where the liability insurance is canceled or the user is reported as operating for other than the approved purposes.

(6) Will not authorize civil use of USAF installations in competition

with civil airports for transportation purposes, for the convenience of passengers or aircraft-operator, transient aircraft servicing, for commercial enterprises, for procuring government business or contracts, or for customs handling purposes.

(b) *All operators must.* (1) Obtain prior authorization to land at USAF installations except bases specifically exempted by joint-use or international agreements or in an emergency.

(2) Have aircraft equipped with operating two-way radio equipment.

(3) Not assume that landing clearance granted by a control tower constitutes prior approval.

(4) Obtain their own diplomatic or overflight clearance.

(5) Pay applicable costs.

(c) *The installation commander.* (1) Exercises administrative and security control over both the aircraft and passengers while on his installation.

(2) Suspends or changes flight plans of civil aircraft including landing or take-off times when necessary to preclude interference with military activities.

(3) Cooperates with customs, immigration, health, and other public authorities, as necessary, in connection with aircraft arrival and departure.

§ 855.11 Definitions.

(a) *Installation.* A defined area of real property for which the U.S. Air Force has operational jurisdiction of the airfield facility either by ownership, lease, or diplomatic agreement.

(b) *Installation Commander.* The Commander of the USAF installation or his designated representative.

(c) *Joint-use installation.* A USAF installation where a specific written agreement exists between the Air Force and a local community or foreign government for civil aviation use of the runways and taxiways.

(d) *Official government business.* Activity associated with operations or functions of United States or foreign governmental agencies at or in the immediate vicinity of a USAF installation.

(e) *Civil aircraft.* Any United States or foreign-registered aircraft owned by private individuals or corporations and foreign government-owned aircraft which are operated for commercial aviation purposes.

(f) *Civil aviation.* All flying activity by civil aircraft of any national registry, including:

(1) *Commercial aviation.* All civil aviation involving the transportation of passengers or cargo for hire.

(2) *General aviation.* All civil aviation not involving transportation of passengers or cargo for hire.

(g) *User.* An individual or corporation operating civil aircraft.

(h) *Government aircraft.* Aircraft owned, operated by or on behalf of, or controlled by any department or agency of either the United States or a foreign government. Also, aircraft owned by any State of the United States operating solely on official Government business.

(1) *Bailed aircraft.* United States Government-owned aircraft delivered to a Government contractor for a specific purpose directly related to a contract.

(2) *Loaned aircraft.* United States Government-owned aircraft delivered gratuitously to another United States Government agency or to a USAF Aero Club.

(3) *Military aircraft.* Aircraft used in the military services of any government.

(i) *Regular airport.* A USAF installation used by commercial aviation on a scheduled basis when the CAB or its foreign government equivalent certifies passenger and cargo service to a community.

(j) *Weather alternate airport.* A USAF installation used as a weather alternate airport as prescribed by Federal Aviation Administration (FAA) or other regulations.

(k) *AF Form 180, Hold Harmless Agreement.* An agreement, executed by the user, which releases the U.S. Government from all liabilities incurred in connection with civil aircraft use of USAF installations.

(l) *AF Form 181, Civil Aircraft Landing Permit.* An application which, when validated by an Air Force approving authority, authorizes the civil operator to use the installation(s) under the terms of this part.

(m) *AF Form 203, Certificate of Insurance.* A certificate which evidences

the amount of third-party minimum liability insurance carried by the user is as required by this part.

(n) *Authorized buyer letter.* A letter of agreement which qualified operators must file with the Air Force in order to purchase Air Force aviation fuel and oil on a credit basis under the provisions of AFR 144-9, Aviation Fuel and Oil Sales to Contract, Charter, and Civil Aircraft. (See Part 819a of this chapter.)

§ 855.12 Aircraft exempt from this part.

(a) Any aircraft owned and operated by:

(1) A U.S. Government agency outside the Department of Defense.

(2) U.S. Air Force Aero Clubs established in accordance with Air Force Regulation 215-8, Air Force Aero Clubs. (See Part 861 of this chapter.)

(3) Aero Clubs of other U.S. military services.

(4) Any U.S. State owned or operated aircraft when operated in connection with official business.

(b) Any civil aircraft under:

(1) Lease or contractual agreement to the U.S. Government and operated on official business by a U.S. Government agency such as the FAA, Department of the Interior, etc.

(2) Lease or contractual agreement to the Civil Air Patrol (CAP) and operated by a USAF-CAP liaison officer on official Air Force business.

(3) CAP control for an authorized Air Force mission when directed by competent Air Force orders.

(4) Bailment contract: *Provided,* The U.S. Government is the insurer for liability.

(5) Humanitarian flights transporting critically ill or injured personnel to or from a USAF installation.

(6) Contractual agreement to any U.S., State, or local Government agency in support of operations involving safety of life or property as a result of a natural disaster.

Subpart B—Unapproved Landings

§ 855.20 Unapproved landings.

A civil aircraft operator who lands at a USAF installation without prior approval and without experiencing an inflight emergency violates this part. There are three types of unapproved landings—an emergency landing, an inadvertent landing, and an intentional landing. On all unapproved landings, the installation commander:

(a) Briefs the operator on this part and the FAA requirement for reporting the incident.

(b) Have the operator prepare a circumstantial report, sign an AF Form 180, and pay applicable charges.

(c) On compliance with the above and a minimum of ground time, allows the operator to depart the installation.

(d) Notifies the local General Aviation District Officer of the FAA region in the U.S. or its possessions.

(e) Notifies appropriate U.S. Defense Attache Office (USDAO) authority in the country of aircraft registration when landing is at a USAF installation within a foreign country. Provides an information copy of the report to the civil aviation authority of the country concerned.

(f) Prepares a report on the landing and submits the report with supporting documentation through channels to HQ USAF/PRPO, Washington, D.C. 20330.

§ 855.21 Emergency landings.

Any aircraft operator who experiences an inflight emergency may land at any USAF installation without prior approval. An inflight emergency is a developed situation which makes continuous flight hazardous.

(a) The Air Force will use any method or means to clear an aircraft or wreckage from the runway. Removal efforts should minimize damage to the aircraft or wreckage; however, military and other operational factors may be overriding.

(b) The user:

(1) Is not charged a landing fee.

(2) Pays all costs for labor, material, parts, use of equipment, tools, etc., to include, but not limited to:

(i) Spreading foam on the runway.

(ii) Damage to runway, lighting, navigation aids.

(iii) Rescue, crash, and fire control.

(iv) Movement and storage of aircraft.

(v) Performance of minor maintenance.

(vi) Fuel.

(3) Files a circumstantial landing report with the installation commander and completes an AF Form 180.

(c) The installation commander:

(1) Documents total cost incurred by U.S. Government. (AFR 177-8, User Charges and User Charges Report (Part 812 of this chapter), will be used for cost determination.)

(2) Collects payment of all charges incurred.

(3) Where there are no survivors, prepares an emergency landing report.

(4) Forwards the report with all related documentation to HQ USAF/PRPO.

(5) Handles an emergency landing by a foreign military or foreign government aircraft in the same manner as for a U.S. Government aircraft.

§ 855.22 Unauthorized landings.

(a) Inadvertent landing. If the installation commander determines that an aircraft operator may have landed due to flight disorientation, mistaken the USAF installation for a civil airport, or had no official interest in being on the installation, the landing may be assessed an inadvertent one. Charges will be the normal landing fees.

(b) International landing. An intentional landing is one where the aircraft operator, either with or without knowledge of the provisions of this part, files a flight plan to and lands at a USAF installation without obtaining prior approval.

(1) The installation commander may categorize a landing as unauthorized when the civil aircraft operator has:

(i) Landed without an approved AF Form 181 on board the aircraft.

(ii) Landed for a purpose not approved on the AF Form 181.

(iii) Operated an aircraft not of a model or registration number on the approved AF Form 181.

(iv) Not requested or obtained the required 24-hour final clearance from the installation commander.

(v) No official Government business purpose for his landing.

(vi) Landed with expired documents.

(2) The installation commander, based on the above information, makes the determination that the landing was intentional and unapproved and assesses both the normal and unauthorized landing fees.

(c) Any repeated inadvertent landing is assessed and processed as an intentional landing. Any operator who makes a repeated intentional landing may be detained at the installation until the unapproved landing report has been reviewed and/or determination made that other requirements have been met before departure. Repeated intentional landings prejudice an operator's existing authority and jeopardize future use of any USAF installation.

Subpart C—Civil Aircraft Use

§ 855.30 Conditions for use of USAF installations.

All users are expected to submit their application at least 30 days in advance of intended use. When authorizing use of its installation, the Air Force does so for a specific type of use by a named individual or company (not transferable to a second or third party) and does not extend to other types of civil aviation use. The operator is limited to use of the landing, taxiing, and normal parking facilities, and is not necessarily entitled to receive aviation fuel, oil, or other services from the U.S. Government. Personnel on board are only authorized activities at the installation directly related to the type of use granted.

§ 855.31 Types of civil use.

Listed in this section are specific types of civil use the Air Force may consider. Others may be considered if sufficient justification is provided. Application must be made for each type of use, except that commercial air carriers may apply for both regular and weather alternate use on the same request.

(a) *Non-government personnel (M).* A U.S. or foreign Government contractor, operating his own aircraft, who uses a USAF installation to fulfill the terms of the contract or to display aircraft equipment to official representatives of the U.S. or a foreign government. Verification: The contractor must provide the current contract

numbers, the USAF installation required for each contract, a brief description of the work to be performed, and the name, telephone number, and address of the Government contracting officer. Representatives of the U.S. or a foreign Government must have requested or invited the demonstration of aircraft or equipment at a USAF installation.

(b) *Nonscheduled air carrier (P)*—(1) *Air taxi operator.* An operator who uses a USAF installation for the official transportation of military and civilian Government employees. Verification: Written agreement between the air taxi operator and the major command or an installation commander (AFM 75-2, Military Traffic Management Regulation, paragraph 304010).

(2) *Charter operator.* An operator who uses a USAF installation for the transport of a U.S. or foreign Government contractor's personnel or cargo in support of a current U.S. or foreign Government contract. Verification: The U.S. or foreign Government contractor must provide written validation that the charter operator is operating on his behalf, to include current contract numbers, and the USAF installations which are required for each contract; a brief description of the contracted work; the name, telephone number, and address of the Government contracting officer; and the contract period.

(c) *Government personnel (J)*—(1) *Active duty U.S. military.* Authorizes active duty U.S. military personnel, operating their own or leased aircraft, to use any USAF installation for official duty transportation (temporary duty, permanent change of station, etc.) or for private nonrevenue flights. (This authorization is extended to all installations where there is an approved USAF Aero Club operating.) Verification: Active duty Air Force serial number, and for personnel of the other Services, provide proof of active duty status.

(2) *Air National Guard, Reserve and Air Force Reserve Officer Training Corps.* Permits ANG, Reserve, and AFROTC personnel, operating their own or leased aircraft, to use a specific USAF installation at which their assigned unit is located or when on official orders for temporary duty at other installations. Verification: Request routed through component command for indorsement.

(3) *Civilian employees of the U.S. Government.* Permits civilian employees of the U.S. Government, operating their own or leased aircraft, to use a USAF installation only for official Government business travel purposes. Verification: Copy of current travel orders or additional documentation certifying requirement.

(4) *Retired U.S. military (includes retired regular and reserves that are entitled to retired pay).* Permits retired U.S. military personnel, operating their own or leased aircraft, to use a USAF installation to participate in the activities authorized U.S. retired military by statute. Use of USAF installations for other purposes is not authorized and may result in revocation of the landing permit. Verification: Copy of retirement orders.

(d) *Commercial aviation (N)*—(1) *Regular airport (R).* Permits scheduled air carrier service to a community or area for on-or-off loading passengers and cargo when no suitable civil airfield exists. Verification: CAB certified service to the community.

(2) *Weather alternate airport (A).* Permits a scheduled air carrier to divert to a specified USAF installation when unforecast weather conditions require a change from the original destination to the alternate destination while in flight. Aircraft may not be dispatched from a point of departure to an approved weather alternate. Verification: Actual use is predicated on weather conditions at a destination.

(e) *U.S. Government contract charter (H)*—(1) *Military Airlift Command contract operator.* Permits an air carrier to use a USAF installation under the terms of a Military Airlift Command (MAC) contract. Verification: The air carrier must have a MAC Form 8 or other issued Government document on the aircraft to substantiate that he is operating on an official MAC contract flight.

(2) *U.S. Government contract/charter operator.* Permits an air carrier to use a USAF installation under the terms of U.S. Government con-

tract/charter awarded by U.S. Government department or agency. Verification: The air carrier must have an official Government document on the aircraft to substantiate that he is operating on a bona fide flight for a U.S. Government department or agency.

(3) *On-call air taxi operator.* Permits an on-call air taxi operator to use a USAF installation at the specific request of any echelon of a U.S. Government department or agency. Verification: The on-call air taxi operator must have an official Government document on the aircraft to substantiate that he is operating on a bonafide flight for a U.S. Government department or agency.

(f) *Civil Air Patrol (K).* Permits aircraft owned and operated by the CAP or a CAP member to use designated USAF installation for official CAP activities. Verification: Indorsement of the application by HQ CAP-USAF, Maxwell Air Force Base, Alabama 36112.

(g) *Other.* Under certain circumstances and based on the justification provided or as may be requested, use of USAF installations may be authorized for:

(1) FAA certification testing (W).

(2) Commercial developmental testing (subject to compliance with Air Force Regulation 80-19, Support of Non-government Test and Evaluation) (W).

(3) Commercial charter operation (S).

(4) Commercial aircrew training flights (W).

(5) Private nonrevenue-type flights (R).

(6) Major political party candidates (for security reasons only). Aircraft either owned or chartered explicitly for a Presidential or Vice Presidential candidate, including not more than one accompanying overflow aircraft. Candidate must be the post-convention major political party's nominee. Aircraft clearance is predicated on the Presidential or Vice Presidential candidate being aboard one of the aircraft. The major political party headquarters must notify HQ USAF/PRPO of all requests for flight schedules involving USAF installations. After normal duty hours, flight schedule changes must be reported to the USAF Operations Center, Washington, D.C. Immediately refer any contacts made outside these channels to HQ USAF/PRPO. Normal landing fees will be charged. Fuel may be sold on a credit basis in accordance with Air Force Regulation 144-9. (See Part 819a of this chapter.)

NOTE: To reduce conflict with U.S. statutes and Air Force operational requirements, and to provide expeditious handling of aircraft and passengers, the following guidance applies for the installation commander: Minimum official (base officials) welcoming party, no special facilities need be provided, no plans should be approved for on-base political rallies or speeches, and no official transportation should be provided for unauthorized personnel (press, local populace, etc.).

§ 855.32 Approving authority.

The authority to approve or disapprove civil aircraft use of USAF installations is vested in:

(a) *Directorate of Programs, HQ USAF.* HQ USAF/PRPO may act on any request for any type of civil aviation use predicated on justification for such use and for the types outlined in § 855.31; however, it reserves the exclusive approval authority on the following:

(1) Commercial air carriers.

(2) Use of multiple USAF installations.

(3) U.S. Government contract/charter operators.

(4) On-call air taxi operators.

(5) Flights operating over international boundaries where landing is to be made at a USAF installation.

(6) Other types, including those not specifically delegated to other competent authority.

(7) Joint civil aviation type use as prescribed under § 855.50.

(8) Any unusual or unique use not specifically authorized by this part.

(b) *Major command or an installation commander.* A major command or an installation commander may approve or disapprove use of an installation(s) under his jurisdiction for the following types of civil aviation:

(1) Civil Air Patrol.

(2) Government personnel.

(3) Nonscheduled air carrier.

(4) Non-Government personnel.

(5) Humanitarian flights in conjunction with evacuation of critically ill or injured personnel.

(6) For flights by aircraft either owned or personally chartered for transportation of the President, Vice President, or a past President of the United States; the head of any U.S. Federal department or agency; or a member of Congress.

NOTE: If time does not permit processing of the request before landing, AF Form 180 and 181 will be completed immediately after aircraft arrival. Collection will be made for landing, parking, and storage fees when use is not for official business purposes. Any request by or for members of Congress will be reported to the Director of Legislative Liaison (SAF/LL) in accordance with Air Force Regulation 11-7, Air Force Relations with Congress.

(c) *Commander, Alaskan Air Command.* In addition to paragraph (b) of this section, the Commander AAC may approve and disapprove landing permits for Alaskan air strips under the control of the Commander, Air Defense Command, without restriction as to type of use. Air Defense Command will be furnished a copy of each AF Form 181 approved under this section. The Air Force mission takes precedence over this type of use, and an approved permit does not obligate use of Air Force supplies, equipment, or facilities other than the landing strip.

(d) *Commander, Military Airlift Command.* In addition to paragraph (b) of this section, the Commander, Military Airlift Command, may approve use of USAF installations worldwide, as required, for flights in support of MAC contracts.

(e) *U.S. Defense Attache.* The U.S. Defense Attache (USDAO), acting on behalf of HQ USAF/PRPO, may approve a request for a one-time landing at a USAF installation as follows:

(1) For official Government business purposes of either the U.S. or the country to which he is accredited.

(2) If the USAF installation is located within the country to which he is accredited.

(3) If the installation commander concurs.

§ 855.33 Civil aircraft user requests.

The prospective user should obtain a copy of this part and the required forms from any USAF installation or approving authority, and review them before submitting the required documents to the approving authority. The appropriate approving authorities are reflected in § 855.32. The type use can be found in § 855.31. To allow time for processing, all documents should be submitted at least 30 days before the date of the first intended landing. The name of the "user" must be the same on all forms. Actual signatures, not facsimile elements, are required on all forms. Prospective civil users of a USAF installation must apply for authorization as follows:

(a) Actions required by civil aircraft users:

(1) Complete, sign, and forward original AF Form 180 to the approving authority. When the user is a corporation, the "Certificate" of acknowledgement on AF Form 180 must be completed and signed by a second corporate officer (other than the officer executing the AF Form 180) to certify the signature of the first officer. As necessary, the Air Force also may require that the "Certificate" of acknowledgement be authenticated by an appropriately designated third official. Once the completed and signed AF Form 180 has been accepted by an approving authority, and unless rescinded for cause, it is valid until obsolete, and need not be resubmitted with future requests to the same approving authority.

(2) Prepare and sign a separate set of AF Forms 181 for each type of use requested. Except for scheduled and weather alternate use, which may be requested on the same form, a separate set of AF Forms 181 is required for each type of use. Complete AF Form 181 in an original and one copy for HQ USAF/PRPO and an original and four copies for other approving authorities. The user should ensure that all entries conform to the requirements of this part.

(i) Type of use stated must correspond with § 855.31. Other types may be considered if sufficient justification is provided.

(ii) Provide, in alphabetical order, the name and location of each USAF installation requested for use. Scheduled airline will designate each listed installation as a regular or weather alternate by placing a (R) or an (A) after the installation name. (The statement "All Major USAF Installations Worldwide," or "All Major USAF Installations Within the Continental United States," generally is acceptable only from those users on official Government business.)

(iii) Provide a brief explanation of the activities, to include the purpose, contract numbers, period of use, and detailed justification for use of each installation requested. Period of use requested must be stated, but will not exceed 18 months. If insurance is the limiting factor, the landing permit expiration date is one day before the insurance coverage expiration date indicated on AF Form 203. If the frequency of use is not precisely known, provide an estimated frequency of use.

(iv) Registration numbers are required, however, they need not be provided if the insurance coverage states "any aircraft of the listed model(s) owned and/or operated" (see § 855.35). Provide all other aircraft information.

(3) Have the insurer or his authorized agent complete, sign, and forward the original AF Form 203 to HQ USAF/PRPO. All coverages must be stated in U.S. dollars (see § 855.35 for required minimum coverages) and must be adequate for the type of use requested and for the passenger capacity and Maximum Gross Take Off Weight (MGTOW) of the aircraft being operated. When the approving authority is other than HQ USAF, submit a signed carbon copy of the original AF Form 203 with the AF Forms 181 to the approving authority. The AF Form 203 is valid until insurance expiration date, and may be used as a basis for actions on any later AF Forms 181 submitted for approval.

(b) Once the AF Form 181 has been approved and distributed, users may make no further entries or amendments. New requirements must be submitted on a new set of AF Forms 181, but may include the old listing.

§ 855.34 Processing procedure of the approving authority.

On receiving a request for the use of a USAF installation, the approving authority:

(a) Determines the availability of the installation and its capacity to accommodate the type of use requested.

(b) Ensures the prospective civil aircraft user has a valid AF Form 180 and AF Form 203 on file at his approving level.

(c) Determines the validity of the request and ensures all entries on the AF Form 181 are in conformance with this part.

(d) Approve the AF Form 181 (with conditions or limitations listed as appropriate) by completing all items in the approving authority section. Assign a permit number comprised of the letter identifiers of the approving authority, the last two digits of the calendar year, a serial number, and a letter suffix indicating the type of use (see § 855.31). Major Commands and USDAO's use a three position abbreviation and bases use the ICAO Code as the letter identifier of the approving authority.

(e) Disapproves the request if it does not comply with the requirements of this part; for example, if:

(1) Use interferes with current operations, security, or ground safety.

(2) Adequate civil facilities are available in the proximity of the requested USAF installation.

(3) Civil user has not fully complied with this part.

(f) Distributes the approved AF Form 181 before the first intended landing, when possible, and as follows:

(1) Original to HQ USAF/PRPO.

(2) Return two copies to the user.

(3) Retain one copy for file.

(4) HQ USAF/PRPO provides one data punch card for each AF Form 181 to the appropriate major commands. Landing permit information in data punch card format is distributed weekly to major commands, who make further distribution via machine printout to their appropriate installations every two weeks.

§ 855.35 Insurance requirements.

Each user who applies for permission to land at a USAF installation presents proof of third-party liability insurance on an AF Form 203, with the amounts stated in U.S. dollars. The policy number, effective date, and expiration date are required. The geographical area of coverage must include the area where USAF installation(s) of proposed use is (are) located. Where several aircraft or aircraft types are included under the same policy, a statement such as "all aircraft owned," "all aircraft owned and operated," "all aircraft owned or operated," "all aircraft operated," etc., may be listed under aircraft registration number(s) in lieu of aircraft registration numbers. To meet the insurance requirements, either individual coverages for "Bodily Injury," "Property Damage," and "Passengers" or a "Single Limit" coverage is required. The coverage carried will be at the expense of the user with an insurance company acceptable to the Air Force, and must be current during the period the USAF installation is to be used. The liability required is determined by the MGTOW of the aircraft, whether passengers are carried, and will not be less than the minimum in the following table:

TABLE—Aircraft Liability Coverage Requirements [Stated in U.S. dollars]

	Bodily injury		Property damage	Passenger
	(a) Commercially operated without passengers			
12,500 pounds and under:				
Each person	$100,000			
Each accident	300,000	$100,000		
Over 12,500 pounds:				
Each person	100,000			
Each accident	1,000,000	1,000,000		
	(b) Commercially operated and privately owned noncommercial with passengers			
12,500 pounds and under:				
Each person	$100,000		$100,000	
Each accident	300,000	$100,000	$100,000	× number of passenger seats.
Over 12,500 pounds:				
Each person	100,000		$100,000	
Each accident	1,000,000	1,000,000	$100,000	× 75% × number of passenger seats.

(a) Any insurance presented as a single limit of liability or a combination of primary and excess coverage will be an amount equal to or greater than the minimums required for Bodily Injury, Property Damage, or Passengers as indicated in the table in this section.

(b) Each user's policy will specifically provide that:

(1) The insurer waives any right of subrogation the insurer may have against the United States by reason of any payment made under the policy for injury, death, or property damage that might arise out of or in connection with the insured's use of any USAF installation.

(2) The insurance afforded by the policy applies to the liability assumed by the insured under the AF Form 180.

(3) If the insurer or the insured cancels or reduces the amount of insurance afforded under the listed policy, the insurer sends written notice of the cancellation or reduction to HQ USAF/PRPO by registered mail at least 30 days in advance of the effective date of the cancellation or reduction. (The policy must state that any cancellation or reduction will not be effective until at least 30 days after such notice is sent.)

§ 855.36 Landing, parking, and storage fees.

All fees are due and collectable at time of use of any active or inactive USAF installation and are deposited

with the Accounting and Finance Officer using DD Form 1131, Cash Collection Voucher. As necessary, guidance and assistance may be obtained from the Installation Accounting and Finance Officer. The landing, parking, and storage fees are based on the aircraft Maximum Gross Take Off Weight (MGTOW). The time that an aircraft spends on an installation is at the discretion of the installation commander. He may permit parking and storage on a nonexclusive, temporary, or intermittent basis consistent with military requirements.

(a) *Normal landing fee.* (1) U.S., U.S. Territories and Possessions. .20/1,000 pounds MGTOW or any portion thereof, minimum $5.00.

(2) Other overseas. .30/1,000 pounds MGTOW or any portion thereof, minimum $7.50.

(b) *Unauthorized landing fee.* (1) Aircraft 12,500 pounds MGTOW and under, $100.00.

(2) Aircraft over 12,500 pounds up to and including 40,000 MGTOW, $300.00.

(3) Aircraft above 40,000 pounds MGTOW, $600.00.

(c) *Parking and storage fee.* (1) Outside a hangar. Charge begins 6 hours after aircraft landing. The rate is .10/1,000 pounds MGTOW for each 24-hour period or fraction thereof, with a minimum of $1.50 per aircraft.

(2) Inside a hangar. Charge begins at time aircraft is placed in the hangar. The rate is .20/1,000 pounds MGTOW for each 24-hour period or fraction thereof with a minimum of $5.00 per aircraft.

(d) *Exceptions.* The landing, parking, and storage fees are not applicable for civil aircraft which are:

(1) Privately owned, or leased, and operated by active duty and retired U.S. military and auxiliary personnel of the CAP, U.S. Air Force Reserve, ANG, and AFROTC.

(2) Operated in support of official Government business, including those operated under a U.S. or foreign Government contract or charter.

(3) Produced under a contract of the U.S. Government.

(4) Exempted from this part.

§ 855.37 Purchase of aviation fuel and oil.

Conditions for sale of aviation fuel and oil are specified in AFR 144-9 (Part 819a of this chapter). A user may purchase Air Force fuel and oil on a credit basis after establishment of the "Authorized Buyer Letter". The Authorized Buyer Letter must be submitted to and accepted by HQ USAF/PRPO before products can be purchased on a credit basis.

§ 855.38 Supply and service charges.

Supplies and services furnished to a user are charged for as prescribed in Air Force Manual 67-1, USAF Supply Manual, volume I, part one, chapter 10, section N, subsection 2. Cash, personal check with appropriate identification, cashier check or money orders are acceptable means of payment.

Subpart D—Foreign Government Aircraft

§ 855.40 General information.

All foreign military or foreign government-owned noncommercially operated aircraft must have authorization before using USAF installations. Where agreements do not exist—between the United States and a foreign government or between the U.S. Air Force and a foreign air force for reciprocal use by military aircraft—foreign government must specifically request permission for its aircraft to land at USAF installations.

NOTE: Permission to land at USAF installations in the United States or foreign countries does not constitute nor take the place of diplomatic overflight clearance.

§ 855.41 Actions required by foreign government aircraft users.

Foreign government aircraft are not required to submit AF Forms 180, 181 and 203 for permission to land at a USAF installation. Instead, the foreign government must:

(a) Complete and forward a written request in an original and two copies through its air attache to HQ USAF/CVAFI, Washington, D.C. 20330, at least a minimum of 72 hours, excluding Saturday, Sunday and U.S. holidays, before first intended landing.

(All Latin American countries are authorized to submit their requests, a minimum of 48 hours or 2 workdays in advance of use of a USAF installation in the Canal Zone or the Continental United States, direct to USAFSO, APO New York 09825.)

(b) Submit a request for diplomatic clearance to the Department of State, where flight to United States territory is desired, unless flight in U.S. airspace is already authorized by an appropriate agreement.

(c) Submit a request for diplomatic clearance to each appropriate foreign country which is to be overflown or in which a landing is to be made (where use of a USAF installation in a foreign country is desired).

§ 855.42 Processing procedures of the approving authority.

On receiving a request, the approving authority:

(a) Determines the availability of the installation and its capability to accommodate the use.

(b) Ensures that the prospective foreign government user has a valid requirement.

(1) Assistant Vice Chief of Staff, Foreign Liaison Division (HQ USAF/CVAFI). HQ USAF/CVAFI acts on all requests for use of a USAF installation by a foreign government aircraft except the Commander, USAF Southern Command, has authority to approve certain requests from Latin American countries. An aircraft landing number (ALAN) is assigned each request approved for foreign government aircraft and notifies USAF installations, major commands, Air Staff offices, and HQ USAF/PRPO by message.

(2) Commander, USAF Southern Command (USAFSO) may act on requests from any Latin American country for its military aircraft or other Government-owned aircraft not engaged in commercial operations, to use USAF installations under his control, and in the Continental United States. Prior clearance for use of Continental United States installations must be obtained, either formally or informally, from the installation commander concerned before issuing the landing authorization. Concurrent with obtaining clearance from the installation commander, informal notification of period of use and petroleum, oil and lubricants billing instructions may be furnished; this information is repeated in the landing authorization message. USAFSO ensures that all authorizations are consistent with current directives.

§ 855.43 Aviation fuel and oil purchases.

Air Force aviation fuel and oil may be purchased by the foreign government aircraft users of USAF installations as authorized by separate agreement or as stated in the approved landing request.

§ 855.44 Supply and service charges.

Charges for supplies and services furnished are prescribed in AFM 67-1, volume I, part one, chapter 10, section N, subsection 2. For official business, communications service may be provided at no cost to the U.S. Government or on a reimbursable basis where additional charges accrue to the U.S. Government for such service. Communications service normally is not provided for other than official business.

Subpart E—Joint Use of a USAF Installation

§ 855.50 Requests for joint use.

Joint civil aviation use of a USAF installation is considered only when requested by authorized governmental representatives of a community. Such requests are considered and evaluated on an individual basis by all reviewing levels.

(a) To initiate consideration for joint use of a USAF installation, submit a request to the installation commander, and include the following:

(1) Type and number of aircraft to be located on the installation.

(2) If applicable, an estimate of the number of commercial operations annually over a 5-year period.

(b) The installation commander, on receipt of the request, without precommitment or comment, forwards the documents to the Air Force representative at the FAA regional office within the geographical area of installation location.

(c) The USAF is responsible for the preparation of the environmental statement. Any costs associated with the preparation of the statement are borne by the requester.

(d) The Air Force representative at the FAA regional office comments on the request regarding airspace, air traffic control, and any other related areas, and returns the request with his comments to the installation commander.

(e) The installation commander comments on the request and forwards his comments and all related documents through channels to HQ USAF/PRPO.

(f) HQ USAF/PRPO, when evaluating the request, considers all of the following factors:

(1) The current and programmed military activities at the installation, dual runway and taxiway facilities, security, availability of supplies and maintenance service, volume and type of military traffic, crash protection, etc., and the extent to which the proposed use might detract from the installation capability to meet national defense needs.

(2) Availability of public airports to accommodate the current and future civil aviation requirements of the community and the practicality of constructing or expanding a public airport.

(3) Availability of sufficient land for civil facilities in an area separate from the Air Force facilities. If the community does not already own the land needed, the necessary land must be acquired either by purchase at no expense to the U.S. Government or from land that is excess to Air Force needs. The availability of excess USAF installation land may be requested through the FAA and the General Services Administration (see 50 App. U.S.C. 1622(g)). The Air Force considers temporary use of real property under Air Force Regulation 87-3, Granting Temporary Use of Real Property (see Part 838 of this chapter).

(4) Whether the community would acquire, construct, and maintain all necessary facilities for civil aviation operations; for example, a terminal building, parking ramp, taxiways, and, if appropriate, a civil runway.

(5) Whether the community would reimburse the U.S. Government a proportionate share of the costs for maintenance and operation of the runway and other utilized facilities.

(g) If HQ USAF/PRPO approves the request for joint use, an agreement will be negotiated and concluded on behalf of the Air Force. The joint-use agreement will state the extent to which the provisions of this part will apply to all civil aviation use authorized.

PART 856—AIRCRAFT ARRESTING SYSTEMS

Sec.

856.1 Purpose.
856.3 Changing concept on the use of aircraft arresting systems.
856.5 Definitions.
856.7 What systems are authorized.
856.9 Authorized use of aircraft arresting systems.
856.11 Pilot responsibilities.
856.13 Use of systems by non-United States Government aircraft.
856.15 Installing a system at a joint-use airport.
856.17 Agreements required for the operation of these systems.
856.19 Letter of agreement with FAA for operating aircraft arresting systems.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: 40 FR 14758, Apr. 2, 1975, unless otherwise noted.

§ 856.1 Purpose.

This part establishes policy on the management and use of aircraft arresting systems.

§ 856.3 Changing concept on the use of aircraft arresting systems.

With the advent of jet aircraft that are equipped with stronger controllable tailhooks, a change in concept for aircraft arrestment has evolved. At some bases, certain aircraft (for example, the F-4) routinely make operational arrestments under certain adverse weather and runway conditions. This procedure has reduced accidents and incidents resulting from the loss of directional control or braking action. However, aircraft which do not have tailhooks (for example, the T-38)

have structural limitations allowing an arresting system only in an emergency stopping situation. Consequently, the Air Force has reviewed its policy on the use of arresting systems to allow for both operational and emergency arrestments. Related policy management and operation of these systems is in the publications listed in paragraphs (a) through (c) of this section.

(a) AFM 88-14, Part 4, Criteria for Airfield Marking. The OPR is HQ USAF, Director of Civil Engineering (PRE).

(b) AFR 60-11, Aircraft Operation and Movement on the Ground or Water. The OPR is HQ USAF, Flight Management Branch, Office of the Deputy Chief of Staff, Plans and Operations. (XOOFSA).

(c) AFM 86-2, Standard Facility Requirements, Basic Item 116-922 Location Criteria. The OPR is HQ USAF, Director of Civil Engineering (PRE).

§ 856.5 Definitions.

(a) *Aircraft arresting system.* A combination of components used to engage an aircraft and absorb its kinetic energy. Each system consists, generally, of an energy absorber and one or more securing or snaring receivers such as hook-cables or pendant-cables attached to a net.

(1) *Aircraft arresting cable (H/C).* A device used to engage hook-equipped aircraft to absorb the kinetic energy of a landing or aborted take-off aircraft.

(2) *Aircraft arresting barrier.* Referred to as a Barrier (BARRIER), a device used to engage and absorb the kinetic energy of a landing or aborted take-off aircraft which is not dependent on an aircraft arresting hook.

(b) *Airfield arresting system complex.* An airfield layout comprised of one or more aircraft arresting systems of the same or different types (see § 856.7(a) for classification of runways).

(c) *Arrestment capable aircraft.* Aircraft which have recognized arrestment procedures in its appropriate flight handbook.

(d) *Cycle time.* The time measured between the engagement of an aircraft with an arresting system and completion of repositioning the arresting system for another engagement. This includes normal inspection and system cooling time according to the appropriate 35E8 Series technical orders.

(e) *Emergency arrestment system (EAS).* Used primarily to prevent damage to aircraft and possible loss of life during an aborted take-off or a landing emergency.

(f) *Energy absorber.* The mechanism through which the kinetic energy of the aircraft is dissipated. Examples of energy absorbers are weights and rotary hydraulic or friction brakes.

(g) *Hook-cable.* A cable or wire rope which is engaged by the arresting hook of an aircraft during an arrestment.

(h) *Location identification.* An arresting system is identified by stating whether it is located on the approach end or the departure end of the runway. (That is, a BAK-12 on the approach end of R/W 36 is on the south end of the runway, and BAK-12 on the departure end of R/W 36 is on the north end of the runway.) Always use the term "approach end" or "departure end" in referring to an arresting system which is installed near the end of a runway.

(i) *Operational arrestment system (OAS).* Generally, a rapid cycle system used to enhance the tactical mission or to avert a possible emergency which may be caused by meteorological conditions, a short runway, or known or suspected aircraft malfunctions.

(j) *Pendant-cable.* A cable or wire rope suspended from the net of an aircraft arresting barrier which engages a structural portion of the aircraft during an arrestment.

(k) *Reset time.* The time required from the beginning of reset operations to make the arresting system ready for another engagement.

§ 856.7 What systems are authorized.

Each runway used by arrestment compatible aircraft should be equipped either with an EAS or an OAS. An additional system (of either type) should also be installed on a runway if the installation's primary mission involves the operation of arrestment capable aircraft, or if the runway's closure (because of an inoperative system) would result in a seri-

ous degradation of mission capability. In any case, the development of the airfield arresting system complex should be made with the objective of providing maximum mission capability within the limits imposed by cost-effectiveness. In evaluating the requirement for installing an arrestment system, there are four classes of runways which must be considered in the decision.

(a) *Class A runway.* This runway is intended primarily for operating tactical or training aircraft. For example, a fully developed Class A runway could have the arresting systems in paragraphs (a) (1) through (4) of this section.

(1) An arresting barrier at each end, generally located in the overrun, but placed to provide the runout prescribed in AFM 86-2.

(2) A bi-directional emergency arrestment system on each end of the runway, placed 950 to 1500 feet up the runway from the threshold. (This system may also have an OAS capability.)

(3) A bi-directional operational arrestment system placed 1500 to 2500 feet up the runway from the threshold. It must be placed at least 1000 feet from the EAS, but far enough from it to avoid any possible conflict with the runout from the EAS.

(4) An OAS placed at the midpoint of the runway. However, the installation of this additional system must be specifically approved by HQ USAF.

(b) *Class B runway.* A runway that is a prime alternate for a Class A runway. It should have an EAS or OAS 950 to 1500 feet up the runway on each end, as well as a backup EAS in the overrun.

(c) *Class C runway.* A runway that requires only a single EAS capability on each end of the runway for either hook or nonhook equipped aircraft.

(d) *Class D runway.* A runway that does not have an arresting system requirement.

§ 856.9 Authorized use of aircraft arresting systems.

A deviation from the following policy is authorized only when directed by the major command (or his designated representative) because of meteorological conditions, safety of flight, or peculiar operational conditions:

(a) Under normal operations and conditions, unidirectional barrier nets or arresting cables will be disconnected and, preferably, removed on the approach end of the runway. Aircraft will take off and land toward the most compatible arresting system available; however, tailhook-equipped aircraft will not take off over a raised remote-controlled net barrier if a more compatible arresting system is available (except during cold weather operations). Bi-directional arresting gear will be kept in the ready position on the approach end of the runway, unless directed otherwise by the installation commander and noted in Flight Information Publications (FLIPs).

(b) If aircraft are landing with known or suspected radio failure, the departure end barrier net will be raised (except for B-57 or T-37 aircraft) and the hook-cable positioned for aircraft engagement. Also, the arresting gear at the approach end will be positioned for engagement, unless the aircraft is vulnerable to an inadvertent engagement because of an unguarded tailhook.

(c) If there is no remote control function, or cold weather makes the remote functional unreliable, the arresting net will be raised manually and left in a cocked position on the departure end of the runway.

(d) During ice and snow removal, barrier nets and hook-cables may be removed from the runway, but the runway should be returned to operational status as quickly as possible. Enough of the runway and overruns should be cleared to allow an obstacle-free runout of the arresting system, plus the length of the arrested aircraft.

§ 856.11 Pilot responsibilities.

Each pilot must understand the capabilities and limitations of each arresting system, and how it may affect the operation of his aircraft. Information on the compatibility of these systems should be included in the appro-

priate flight handbook. In addition, the pilot must:

(a) Determine the status of the arresting system at each base of takeoff and intended landing, as well as any alternate or planned emergency bases, before he begins a flight.

(b) Use the emergency radio phraseology, "barrier, barrier, barrier" or "cable, cable, cable," when emergency conditions require the tower to raise the barrier net or ready a hook-cable for possible engagement of remote controlled systems.

(c) Be aware of the effect of each aircraft configuration on the probability of a successful engagement. He should also be aware of possible damage caused by an inadvertent engagement, landing on, rolling over, or impacting hook-cables or other associated arresting equipment.

§ 856.13 Use of systems by non-United States Government aircraft.

In an emergency, the pilot of these aircraft may, upon request, use the aircraft arresting system at an Air Force base or joint-use airfield in the United States or overseas.

§ 856.15 Installing a system at a joint-use airport.

At a civil airport used jointly by the Air Force and civil agency the procedure for installing an arresting system is:

(a) The responsible Air Force commander notifies the airport manager that the Air Force needs to install an arresting system.

(b) If the airport manager agrees that the system should be installed, the Air Force commander submits the required plans or sketches to the FAA regional office through FAA channels.

(c) If the airport manager of the FAA disagrees with these specifications, the Air Force commander informs HQ USAF/PRE and requests appropriate action to resolve the disagreement.

(d) If an arresting system is required, but the lease does not authorize or prohibits the Government from placing an additional structure on the leased premises, the Air Force commander submits a request to HQ USAF/PRE for action as prescribed by AFR 87-1, Acquisition of Real Property, and attaches a brief statement explaining or quoting the lease restriction.

§ 856.17 Agreements required for the operation of these systems.

(a) *Military rights agreement at an overseas base.* These systems are installed under the military rights agreement with the host government. If a separate agreement is specifically required to install the system, the base commander initiates action to obtain it from the host government. He coordinates these negotiations with the local United States diplomatic representative. If the commander cannot reach an agreement, he notifies HQ USAF/XOOF, requesting action.

(b) *Liability agreements at a joint-use civil airport.* If the Air Force installs an arresting system for the primary use of United States military aircraft at a joint-use civil airport, the FAA acts for, and on behalf of, the Air Force in operating this equipment. However:

(1) Any third-party claim presented for damage, injury or death, resulting from the FAA operation of the system for military aircraft or from the Air Force or Air National Guard maintenance of the system, is the responsibility of the Air Force and is processed under AFM 112-1, Claims Manual (as prescribed for any claim against the Air Force).

(2) A separate agreement between the Air Force and the FAA is not required concerning liability for damage arising from the intentional operation of the system by FAA personnel for civil aircraft, because such claims are the responsibility of FAA.

(c) *Operational agreement with FAA for a joint-use civil airport.* The major commander has authority to negotiate the written agreement for this use, but may redelegate this authority to the base commander. The agreement must decide FAA functions and responsibilities covering the remote control operation of arresting systems by FAA air traffic controllers (see § 856.19).

§ 856.19 Letter of agreement with FAA for operating aircraft arresting systems.

The following operational agreement is entered into between the (FAA office and address) and (designated command) for the operation and use of aircraft arresting equipment installed on (designated runway, airport name and address).

(a) *General provisions.* (1) This agreement governs the use of the arresting barrier (BARRIER), and hook-cable arresting systems for military aircraft and in an emergency for civil aircraft at pilot request.

(2) Automatic aircraft arresting systems can be installed on the runway or in the overrun. The barrier or hook-cable shall be raised or lowered by control tower personnel by a remote control panel in the control tower.

(3) This agreement becomes effective when the tower chief receives notice in writing from the base commander that:

(i) The arresting system has been accepted from the contractor and is commissioned and fully operational, or

(ii) The arresting system is available on a limited basis for emergency use. If the arresting system has not been accepted from the contractor, this notification must be accompanied by a written statement from the contractor authorizing the emergency use of the system, and waiving any claim against the FAA for damage to the system as the result of such use, or

(iii) A NOTAM has been issued specifying conditions in paragraphs (a)(3) (i) and (ii) of this section. Prior to the receipt of the letter from the base commander, the tower arresting system controls shall be de-energized by the military and placarded "INOPERATIVE" by the Chief Controller, and shall not be activated by tower personnel under any circumstance.

(4) When the arresting systems are in commission or emergency use status, as described in paragraph (a)(3)(ii) of this section, controllers shall operate the tower arresting system controls at the request of a pilot of any military aircraft (regardless of the service concerned, type of aircraft, or whether the operation is routine or emergency) and at the request of a civil pilot in an emergency. The tower shall also comply with requests for arresting system operations by a mobile control units, the base operations officer, or his designated representative.

(5) NOTAMS covering operational or outage status of the barrier or hook cable shall be originated by the military. During a NOTAMED outage for repair or maintenance, the tower personnel shall operate the controls provided that the outage NOTAM contains the statement "available for emergency use" and the tower is provided a copy. Otherwise, tower controls shall be de-energized by the military and posed "INOPERATIVE" by the Chief Controller, and shall not be activated by tower personnel under any circumstance.

(6) During the NOTAMED outages owing to failure of tower controls or control lines to the facility, or upon notification by tower personnel of a malfunction of the arresting system mechanism or remote control system (see paragraph (b)(8) of this section for notice), the military crew at the system site shall have full and final responsibility for operating the arresting device. The arresting system crew shall maintain a listening watch on appropriate air and ground frequencies and have transmit and receive capability with the tower on the ground control frequency in order to keep personnel informed of the position of the system.

(b) *Operations.* (1) Normally, all military aircraft takeoffs and landings shall be made toward an operational arresting system in the appropriate "ready" configuration. It is the pilot's responsibility to request the control tower operator to raise or lower the barrier or hook-cable (NOTE: For normal operations, request to raise the barrier or cable shall be interpreted to mean the runway departure end barrier or cable). Example: "Duluth Tower Joy 32 on base gear down and locked—raise cable." When the pilot advises the control tower that he is ready for takeoff, he shall also request that the barrier or cable be raised. Example: "Duluth Tower Joy 32 ready for takeoff—raise barrier/cable." If an approach end arrestment is desired by the pilot, he must specifically request

the approach end cable be raised. Example: "Duluth Tower Joy 32 three mile final gear down and locked—raise cable on approach end of 24." The departure end cable will also be raised as for normal operations.

(2) When the barrier/cable is requested, tower personnel shall advise the pilot of the indicated barrier/cable position when providing takeoff or landing information. Example: Joy 32 cleared for takeoff—barrier/cable indicates up or down.

(3) The barrier/cable operating status may be requested by the pilot at any time.

(4) The barrier/cable controls shall be activated for the down position except when pilots or other authorized personnel request that the barrier/cable be raised.

(5) The tower personnel shall raise the departure end barrier and both approach and departure end cables for known or suspected radio failure landings by any military jet aircraft except for B-57, T-37 and large cargo type aircraft C-141, C-5, C-9, and so forth. If there is a doubt regarding the ability of an aircraft to engage a system, the system should be activated.

(6) The standard emergency phraseology for the barrier to be raised to the up position shall be "Barrier, Barrier, Barrier" and for the cable to be raised to the up position shall be "Cable, Cable, Cable."

(7) Tower personnel shall initiate normal crash procedures when an aircraft engages the barrier/cable if these procedures have not previously been initiated.

(8) When there is a malfunction of the barrier or hook-cable mechanism or remote control system, the tower personnel shall notify Base Operations immediately.

Executed at ———————————
Dated ———————————

For the Federal Aviation Agency

(Signed) ———————————
(Title) ———————————
(Region) ———————————
(Address) ———————————

For the Air Force For the Air National Guard

(Signed) ———————————
(Title) ———————————
(Region) ———————————
(Address) ———————————

PART 859—NON-AIR FORCE PILOTS FLYING AIR FORCE TEST AIRCRAFT

Sec.
859.0 Purpose.
859.1 Test aircraft explained.
859.2 Who may fly Air Force test aircraft.
859.3 Approval of flights.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: 45 FR 62427, Sept. 19, 1980, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation 60-30, September 12, 1975.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 859.0 Purpose.

This part authorizes the flying of Air Force test aircraft by non-Air Force pilots, and tells who may approve such flights.

§ 859.1 Test aircraft explained.

A test aircraft is any AFSC/AFLC aircraft assigned for development, test and evaluation (DT&E) purposes (E coded assignment designation). Production aircraft undergoing acceptance testing but not yet accepted from the contractor by the Air Force are not included.

§ 859.2 Who may fly Air Force test aircraft.

Non-Air Force pilots with qualifications comparable to Air Force standards may fly Air Force test aircraft provided:

(a) Flights are in the interest of the Air Force development program and do not hinder the Air Force testing program.

(b) The person making the flight submits a report of the findings of each flight to the approving Air Force agency.

(c) Classified information is not disclosed or revealed except with specific approval.

§ 859.3 Approval of flights.

(a) HQ USAF/RDP approves flying of Air Force:

(1) Test aircraft by:

(i) Persons officially sponsored by or representing foreign governments whose visit within CONUS has been approved by HQ USAF/CVAF.

(ii) Other non-United States citizens.

(iii) United States citizens who are not members of the Department of Defense (DOD), National Aeronautics and Space Administration (NASA), or Federal Aviation Administration (FAA).

(2) Research or experimental aircraft by persons not directly involved in the testing program for that aircraft.

(b) The Commander, AFSC and AFLC, approves flying of Air Force test aircraft by:

(1) United States citizens who are members of DOD, NASA, or FAA.

(2) Civilian contractor personnel actively engaged in approved Air Force test programs.

(c) The cognizant Air Force government flight representative approves flights of contractor personnel in Air Force test aircraft according to the terms and conditions of the contract under which the aircraft is provided.

(d) The administrator of the agency responsible for the aircraft approves flights of other pilots (including Air Force pilots) in Air Force test aircraft on loan to NASA or FAA, except as provided in paragraph (a)(1)(ii) of this section.

PART 860—CONTRACTOR'S FLIGHT OPERATIONS

Sec.

860.1 Purpose.
860.2 Terms explained.
860.3 Responsibilities and authority of the GFR.
860.4 Contractor's flight operations procedures.
860.5 Forms and records.
860.6 Qualification requirements.
860.7 Flight crewmember and other flight personnel approval.
860.8 Flight crewmembers proficiency requirements.
860.9 Pilot/copilot proficiency requirements for rotary wing aircraft.
860.10 Pilot/copilot proficiency requirements for all tactical fighters, fighter bombers, attack surveillance, trainers, and light aircraft that have a gross weight of less than 12,500 pounds.
860.11 Pilot/copilot proficiency requirements for large cargo, bomber, patrol, and utility aircraft that have a gross weight greater than 12,500 pounds.
860.12 Navigator proficiency requirements for cargo/bomber/patrol unless specifically identified in § 860.13.
860.13 Navigator proficiency requirements for tactical jet fighter, fighter bomber/trainer, such as F-4, F-111, FB-111, F-14, etc.
860.14 Flight crewmembers other than identified in §§ 860.9, 860.10, 860.11, and 860.12 as defined in § 860.2(b)(2).
860.15 Ground personnel.
860.16 Additional administrative matters.
860.17 Sample format, request for approval for qualification training.
860.18 Sample format, request for approval of contractor flight crewmember.
860.19 Sample format for designating government flight representatives.
860.20 Minimum requirements.

AUTHORITY: 10 U.S.C. 8012.

SOURCE: 44 FR 69288, Dec. 3, 1979, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation 55-22, April 3, 1979.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 860.1 Purpose.

This part sets up procedures to obtain the required approval from the Army, Navy, Air Force, or Defense Logistics Agency of contractor's Flight Operations Procedures (hereafter identified as Procedures) and contractor's personnel who operate aircraft for the Government. Also, it provides for the delegation of authority for such approvals, regardless of service affiliation. This part applies to all Army, Navy, Air Force, and Defense Logistics Agency (DLA) Government Flight Representatives who approve contractor's Procedures, and to contractor personnel who operate any aircraft for which the Government is assuming some of the risks of loss or damage. This part does not apply to undergraduate contract flight train-

ing, operation of leased Government aircraft in accordance with 10 U.S.C. 2667, or Corps of Engineers, Civil Works owned and operated aircraft.

§ 860.2 Terms explained.

(a) *Terms relating to Government*—(1) *Approving authority.* The commander or comparable individual of one of the following organizations having the administrative responsibility for a particular contractor facility in accordance with DODM 4105.59H:

(i) Army Heads of Contracting Activities (HCA) or their designee.

(ii) Naval Plant Representative (NAVPLANT-REP).

(iii) Air Force Heads of Contracting Activities (HCA) or their designee.

(iv) Commander, Defense Contract Administration Services Region (DCASR).

(2) Government Flight Representative (GFR). That officer on current flight status (including non-operational flying status) to whom the approving authority has delegated responsibility for approval of contractor flights, Procedures, and flight crewmembers.

(3) Procuring Contracting Officer (PCO) and Administrative Contracting Officer (ACO). Individuals designated in accordance with the Defense Acquisition Regulation (DAR/ASPR) and defined in DAR 1-201.3.

(b) *Terms relating to contractor*—(1) *Contractor.* Any individual, corporation, or other entity whose personnel may operate aircraft for which the Government assumes contractual liability for loss or damage to the aircraft.

(2) *Flight Crewmembers.* Any instructor/flight examiner, pilot, copilot, flight engineer/mechanic, navigator, weapons system operator, bombardier-navigator, sensory systems operator, boom operator, loadmaster, remote piloted vehicle operator, and defensive systems operator when assigned to their respective crew positions to conduct any flight under the contract.

(3) *Flight Personnel (Noncrewmember).* Personnel designated by the contractor to perform a function while the aircraft is in flight; for example, technicians, observers, inspectors, systems engineers, and photographers.

(4) *Ground Personnel.* Personnel designated by the contractor to perform preflight/postflight inspections, aircraft towing and taxiing, engine run-up functions, and to operate associated aerospace ground support equipment.

(5) *Requesting Official.* The member of the contractor's first level of management (president, vice president) or appointed designee authorized to sign a request for GFR approval for qualification training of contractor personnel or for a flight crewmember. (See §§ 860.17 and 860.18.)

(6) *Aviation Safety Official.* The individual assigned primary responsibility for developing and administering the contractor's aviation safety program. Normally this individual should be a qualified pilot who has related aviation safety administration experience.

(7) *Flight Operations.* Those operations conducted by the contractor's management, flight crewmembers, flight personnel (noncrewmembers), ground personnel, and crash/rescue personnel in support of aircraft flight or ground operation related to contractual requirements. For the purpose of this document, operation of installed engines, towing, taxiing, and high speed taxi tests are also considered "flight operations."

(c) *Terms Relating to Aircraft*—(1) *Test Aircraft.* Any aircraft used for research, development, test and evaluation purposes.

(2) *Production Aircraft.* Any aircraft being manufactured for use in the operational inventory or undergoing contractor maintenance or modification, including aircraft produced for a Defense Security Assistance Program, when applicable:

(i) *Preaccepted Aircraft.* Any aircraft which has not been accepted (that is, DD Form 250, Material Inspection and Receiving Report, has not been executed) by the Government, but for which the Government has assumed the risk of loss, destruction, or damage.

(ii) *Accepted Aircraft.* Any aircraft for which the DD Form 250 has been executed by the Government.

(3) *Government-Furnished/Bailed Aircraft.* Any Government-owned aircraft provided to a contractor for use in conjunction with a specific contractual requirement.

(d) *Terms Relating to Flights*—(1) *Experimental Test Flights.* Flights which are hazardous in nature and involve greater than normal risk. These include but are not limited to:

(i) Initial flight of a new type or model aircraft, high angle of attack tests, flutter and loads tests, and critical stores separation tests.

(ii) Flights to determine or expand flight or propulsion system envelope.

(iii) Flights to initially determine the performance, flight characteristics, and handling qualities.

(iv) Flights of experimental and research aircraft.

(v) Flights of an aircraft whose flight characteristics may have been altered by configuration changes.

(vi) Initial flights of the first production aircraft of a new type, model, or series.

(vii) Initial flights of the first of those aircraft which have undergone "major alteration" as defined in Federal Aviation Regulations.

(2) Engineering Flights:

(i) Subsystem development flights (for example, autopilot, fire control, bombardier/navigator systems).

(ii) Component development and reliability flights (for example, engine propeller, rotor and transmission systems).

(iii) Flights where the aircraft serves as the vehicle carrying the item to be checked (for example, electronic countermeasure stores, checking a radar or firing of a missile).

(3) Acceptance, Functional, or Production Check Flights. For the purpose of this part:

(i) Flights to determine compliance with contractual requirements.

(ii) Flights to ensure that installed systems are operating correctly.

(iii) Flights following programmed maintenance.

(4) Support Flights:

(i) Photographic.

(ii) Chase/pace.

(iii) Crash/rescue.

(iv) Target or target towing.

(v) Aircraft delivery.

(vi) Demonstration flights conducted accoring to AR 95-1, Navy OPNAVINST 3710.7H, AFR 60-18, and contractor demonstration flights.

(vii) Severe weather evacuation flights conducted according to AR 95-87, OPNAVINST 3730.3D, AFR 55-4, or appropriate oversea command directives.

(viii) Administrative flights, such as cargo flights, personnel carrier, etc. This includes flights of an emergency nature.

(ix) Aircrew evaluation, training, and proficiency.

(5) Associated Experimental Ground Operation. Ground operations which are hazardous in nature and involve greater than normal risk:

(i) Ground run up, subsystem warm up/check out, and taxi/hover of aircraft.

(ii) Operation of any Ground Test Vehicle (GTV).

§ 860.3 Responsibilities and authority of the GFR.

(a) *Approving Authority.* The approving authority designates the GFR for the contractor's facility. The approving authority also may designate an alternate GFR to act in the absence of the primary GFR. This delegation must be in writing, and may not be redelegated. GFRs, when practical and possible, will be qualified in the type, model, and series aircraft operated at the contractor's facility. The contractor should be notified in the same way as other Government contract administrative personnel when the GFR is appointed or changed (See § 860.19).

(b) *GFR Responsibilities.* The GFR is responsible for surveillance of all contractor flight operations involving Government aircraft and other aircraft for which the Government is assuming some of the risk of loss or damage. All flights and procedures for ground operations of installed engines, engaging of rotors, and towing of Government air craft conducted by the contractor are subject to final administrative approval by the GFR. When the contractor is not acting in accordance with safety release procedures prescribed in the contract, test plans,

or other applicable directives, or if safety of flight is involved, the GFR may withdraw approval for the flights and Procedures.

(c) *GFR Approvals.* The GFR having cognizance of the contractor facility, approves flight crewmembers, qualifications training, and the contractor's Procedures. Subsequent to approval, the GFR will notify the contractor in writing, with a copy to the ACO, of the conditions found unreasonable and therefore unacceptable which the contractor must correct within a reasonable time. If the contractor fails to act promptly to correct the unreasonable conditions, the GFR refers the matter to the ACO for a decision as to the termination of the Government's assumption of risk for loss, damage, or destruction of Government aircraft.

(d) *Review Requirements.* Conduct a review of the contractor's Procedures in accordance with this part at least every 12 months and whenever the primary GFR is changed to ensure currency and compliance. The contractor keeps the record of the review dates and action taken.

(e) *Remote Locations.* At remote or geographically separated operating locations where support administration is being accomplished, the responsible GFR will, as much as possible, rely on the approval granted at the home facility.

§ 860.4 Contractor's flight operations procedures.

(a) *Preparation.* The contractor prepares and maintains current, specific, written Procedures, separate and distinct from industrial procedures, to cover flight operations at all operating facilities, These Procedures must describe how the contractor controls these activities so that individuals do not perform duties that they are not qualified or authorized to perform. The GFR for each facility or another qualified staff member, may assist but should not actually prepare these Procedures. Approved contractor Procedures for operating facilities must cover the areas listed in §§ 860.4(b) through 860.4(h) unless the GFR determines that they do not apply.

(b) *Flight Management:*

(1) Flight scheduling and planning includes:

(i) Flight planning facilities, including FLIP or other appropriate planning charts.

(ii) Procedures for obtaining GFR approval for all flights, including advanced planning to avoid situations where personnel designated to approve flights are not available. Prepare flight schedules sufficiently in advance to preclude interruption to either Government or contractor operations. When a type of flight is conducted repeatedly for the same purpose, the approval may be for each or any number of flights at the discretion of the approving authority. Flights approved singly or as groups, must be:

(*a*) Conducted by contractor's approved pilots.

(*b*) Performed in a specified flight area, route or course.

(*c*) Performed according to a Government approved flight test plan, if applicable.

(*d*) Within the applicable safety/engineering limitations.

(*e*) In accordance with approved Procedures.

NOTE: The GFR refers technical concerns to the appropriate engineering authority.

(iii) Identification of the contract individual, by position or title, responsible for giving written flight authorization.

(iv) Procedures governing the use of mixed aircrew (contractor and Government crewmembers) in multiplace aircraft or formation flights.

(v) Procedures for designating pilot in command for aircraft with more than one pilot and for formation flights.

(vi) Minimum crew requirements for the various types of flight activities.

(vii) The following crew duty period for crewmembers or flight personnel (See § 860.2(b) (2) and (3)).

(*a*) The maximum crew duty is 10 consecutive hours for single piloted aircraft; 12 consecutive hours for dual piloted aircraft without an operative autopilot installed; and 16 consecutive hours for dual piloted aircraft with an operative autopilot installed and used.

(*b*) The crew duty time for all acceptance/functional check flights is

limited to 12 consecutive hours for dual piloted aircraft.

(c) Except for support flights, the crew duty time for single piloted rotary wing aircraft is limited to a maximum of 6 flying hours in a 10-hour duty period.

(d) The crew duty period begins when the crewmember or flight personnel reports for work, and includes all time spent in flight planning and preflight.

(e) A downtime of 12 hours with a minimum of 8 hours allowed for sleep, is required before beginning a new crew duty period. When justified, the GFR may grant extension to the crew duty period of not more than 2 hours, on a case-by-case basis.

(viii) Procedures to make sure that flight crewmembers who will be exposed to night or instrument meteorological conditions are currently qualified for these flight conditions.

(ix) Pilot/flightcrew information file and procedures to review the information file prior to flight. Include interim changes or revisions to the approved procedures in this file.

(2) Contractor personnel use Government technical manuals and checklists in all flight operations where applicable technical data has been published. The contractor obtains Government publications through normal distribution for all military technical manuals, changes, and supplements. Where only commercial manuals are available, the contractor is responsible for obtaining them and making sure that changes and supplements are promptly posted in the basic technical publications so that personnel use the most current technical data available. Locally devised checklists may be used only when such deviation is authorized by the appropriate approving authority. Mixed crews (Government and contractor personnel) performing aircrew or maintenance tasks must use identical checklists.

(3) See § 860.6(c) for aircraft currency requirements.

(4) It is recognized that circumstances dictate that some contractor flight crewmembers be current in more than one type of aircraft. This is generally due to a number of unlike aircraft in the contractor's custody. Prior to approving contractor pilots for multiple currency in Government aircraft, the GFR reviews the individual's qualifications as they relate to the various aircraft to be operated. Contractor's flight personnel who are current in other than military aircraft will have their records so noted, but certification of approval for such additional currency will not be the responsibility of the GFR. However, the appropriate approving authority may limit multiple aircraft currency on the basis of total civilian Government aircraft and their complexity. Generally, the operation of civilian Government aircraft will not contribute to currency and proficiency requirements in the operation of military aircraft unless the civil and military aircraft are similar in type and model, and have basically the same engineering systems (fuel, electrical, hydraulic, etc.) as determined by the approving authority.

(5) Procedures for maintaining qualifications and training folders for flight crewmembers, flight personnel (noncrewmembers) and ground personnel.

(6) Procedures for inspecting aircrew training folder and aircrew records folder.

(7) Procedures to ensure flight crewmember qualification for varying flight conditions and flight activities.

(8) Criteria for standardization or evaluation of flight crewmembers.

(9) Procedure for requesting Government approval of qualification training (See § 860.17).

(10) Procedure for requesting approval of contractor flight crewmember (See § 860.18).

(11) Documentation of qualification and experience (that is, certificates, licenses, logbooks, permits, instrument ratings, etc.).

(12) Procedure and criteria for selecting and designating contractor aircrew instructors, flight examiners, etc.

(13) Procedure for termination of approval.

(14) Provisions for determining weight and balance for each aircraft and flight.

(15) Procedures for and use of personal and life support equipment. Flight equipment that at least meets military requirement will be made available for aircrew use.

90-112 O—82——28

(16) Flight safety:

(i) The accident prevention program will include:

(*a*) Contractor's consolidated safety council to promote a program of accident prevention in flight, ground, industrial, and explosive activities.

(*b*) Regular flight safety surveys (at least semiannually) using the following references as guidelines: (1) Army—the USAAAVS Guide to Aircraft Aviation Resource Management for Aircraft Mishap Prevention. (2) Navy—the NAVSAFECEN 3750 P1 Safety Review Checklist. (3) Air Force—AFM 127-1. (4) Defense Logistics Agency DLAM 8220.3.

(*c*) Safety publications.

(*d*) Published safety responsibilities.

(*e*) Hazard, mishap, reporting, and correction procedures.

(*f*) Regularly scheduled monthly flying safety meeting.

(*g*) Designation of aviation safety official with specific duties and responsibilities.

(*h*) Fire protection and prevention program.

(*i*) Crash and rescue procedures.

(*j*) Aircraft ground handling and services procedures and practices.

(*k*) Foreign object damage control procedures.

(ii) Preaccident and crash alarm systems procedures include a current roster of Government personnel (home and office phone) to be notified of damage or destroyed aircraft. This is in accordance with the DAR clause titled, "Aircraft, Missile and Space Vehicle Accident Reporting and Investigation." This plan includes the procedure for contractor and subcontractor cooperation and participation in accident investigation conducted by the Government.

(iii) Provisions for search and rescue procedures.

(iv) Procedures for medical examination of flight crewmembers, flight personnel (noncrewmember), passengers, and official observers involved in an aircraft mishap. Military and contractor supervisory personnel will use discretion in determining when contractor personnel are to be examined by competent medical personnel following certain aircraft mishaps. In the event of a physiological incident, or when the nature of the mishap causes injury to the flight crewmembers/personnel or causes substantial damage to the aircraft, an FAA approved medical examination is required. However, aircraft system failures that do not prevent safe recovery and landing, and that have not inflicted injury, are not the type of mishaps that would normally require medical examination prior to subsequent flights.

(c) *Flight Crewmember Requirements:*

(1) Detailed qualification, requalification, upgrading, and instructor qualification programs must be outlined in the contractor's Procedures. These include the expiration dates for recurring training requirements, as well as the procedure used to assure that flight crews do not fly if training requirements have not been met.

(2) Training Requirements:

(i) Survival training requirements, if applicable.

(ii) Personal and life support equipment training.

(iii) Egress training.

(iv) Physiological training, if required (See § 860.6(d)).

(v) Ground school requirements.

(vi) Emergency procedures training, including simulator, if available.

(3) Flying Requirements:

(i) Annual flying time/sorties examinations (See § 860.8).

(ii) Annual proficiency flight checks.

(iii) Annual instrument flight checks, if required.

(iv) Who may administer flight checks.

(v) Current FAA flight physical.

(vi) Contractor physical requirements, when FAA physical not required.

(d) *Flight Personnel (Noncrewmembers) Requirements:*

(1) Qualification procedures, including emergency procedures as applicable.

(2) Determination of contents and maintenance of records folder.

(3) Flying Requirements:

(i) Physiological training, if required (See §860.6(d)).

(ii) Qualification procedures.

(iii) Egress training.

(iv) Contractor physical requirements.

(e) *Ground Personnel Requirements:*

(1) Qualification procedures, including emergency procedures as applicable.

(2) Ground egress training.

(3) Contractor physical requirements.

(f) *Passenger Transporation Procedures.* Include procedures for submitting contractor personnel or other passenger transportation requests, including orientation flights, on Government aircraft through the GFR to the appropriate military command for approval.

(g) *Planning and Flight Mission Procedures:*

(1) Prepare mission profiles for each type of flight regulatory conducted by the contractor's flight crewmembers and covered in the Procedures. Prescribe specific geographical areas or point-to-point routes and flight-following procedures for conduct of flights.

(2) Mission profiles and specified geographical areas must make maximum use of ground radar, ground radio, and chase/pace aircraft to monitor position and status of aircraft.

(3) Crew briefings should include, but will not be limited to:

(i) Station and takeoff times.

(ii) Primary mission, including mission aircraft, support aircraft, weather, crewmember duties, routes and ranges, communications, specific mission procedures, and recovery and landing.

(iii) Alternate mission.

(iv) Life support systems and equipments.

(v) Emergency procedures (including hand signals in tandem seat aircraft in the event normal communications become inoperative).

(vi) Security assigned to the mission.

(vii) Ground coordination procedures.

(viii) Passenger briefing.

(ix) Mission debriefing after each flight.

(4) The contractor's Procedures should, as a minimum, cover items (i) through (v) below. If the contractor flight activity is physically located at a fully operational civil or military airfield that has these Procedures in operation, the contractor will comply with local directives and execute an agreement with the airfield authority. All procedures must meet FAA requirement and include:

(i) Basic regulations, to include flight areas.

(ii) Weather minimums.

(iii) Traffic control tower requirements.

(iv) Filing of flight plans.

(v) Standard operating procedures, to include:

(*a*) Radio failure.

(*b*) Landing gear malfunction.

(*c*) Crosswind landing criteria.

(*d*) Airdrome traffic procedures.

(*e*) Emergency procedures for takeoff and landing, to include procedures for use of fire equipment, barriers and arresting gear, if applicable.

(*f*) Controlled bailout/ejection and jettisoning areas, if applicable.

(*g*) Arming and dearming, if applicable.

(*h*) Minimum fuel procedures.

(*i*) Severe weather plans.

(h) *Unlawful Seizure Procedures.* Procedures to prevent unlawful seizure of aircraft.

(i) *Experimental and Engineering Operations.* Address contractor flight operations of experimental tests, engineering tests, and associated experimental ground operations of government aircraft as separate sections within the Procedures.

(j) *Approval of Procedures.* The contractor forwards the completed Procedures to the GFR for approval. The Procedures for each operating location must be approved by the cognizant GFR assigned. Current copies of these Procedures are to be maintained by the GFR and the contractor at each such facility. Furnish a list of the approved crews at the principal facility to all remote or geographically separated operating locations. The contractor will not begin flight operations until Procedures have been approved in writing by the GFR.

(k) *Procedure Deficiencies.* If the GFR determines the Procedures are deficient, inadequate, or outdated, notify the contractor and the ACO. Failure of the contractor to correct the Procedures in a reasonable time are grounds for withdrawal of the GFR's approval of the flight crewmembers and contractor's Procedures.

Flight operations conducted after such withdrawal are deemed operations without the approvals required by applicable clauses of the contract.

(l) *Noncompliance With Approved Procedures.* Noncompliance with approved Procedures or development of dangerous practice must be brought to the immediate attention of the contractor and the ACO by the GFR. When the initial notification is oral, the GFR immediately prepares a formal written statement fully outlining the deficiencies as a matter of contract record. Failure to comply with approved Procedures or development of a dangerous practice is unacceptable and therefore an unreasonable condition within the meaning of the clause of the contract. This is grounds for termination of the Government's assumption of risk for loss or damage to Government aircraft. The Government reserves the right to take such other action as may be necessary for preserving the aircraft.

(m) *Review System.* The contractor establishes a Procedures review system. Whenever the Procedures need revising, the contractor submits revisions with supporting documents to the GFR for approval.

§ 860.5 Forms and records.

(a) *DD Form 1821, Contractor—Crewmember Record.* Use DD Form 1821, OMB Approval No. 22-R0197, to record individual flightcrew personnel records and approval to operate Government aircraft.

(b) *Training Folder.* Maintain a training folder on each flight crewmember while in training status. This folder serves as a management tool to record training progress and assists in the orderly progression of training. The folder contains:

(1) A record of qualification training.

(2) A record of the grade and date of the current aircraft and aircrew examinations.

(3) Hour, type, and dates of ground school completed.

(4) Each training and checkout flight numbered with a resume as to the areas covered including how the trainee performed during that training period.

(5) Record of training prerequisites (See § 860.4(d)(2)).

(c) *Records (Crewmember).* Maintain a record folder for each flight crewmember after the completion of training and qualification. Include in the record folder:

(1) A complete training folder as required in § 860.5(b).

(2) Copies of GFR flight crewmember approvals. Include documented records of completed special training which is needed to perform all maneuvers required to conduct the test, functional/acceptance check flights and mission profile; for example: formation, refueling, instrument, night, low level, etc.

(3) Certification of current FAA flight physical.

(4) Completed copies of aircrew proficiency during the last 2 years.

(5) Certification of physiological training, when required.

(6) Certification of applicable egress and survival training required by the contractor's Procedures.

(7) A copy of all applicable FAA certificates.

(d) *Records (Noncrewmember).* Maintain a records folder for flight personnel (noncrewmembers). Include in this folder:

(1) A completed copy of contractor's noncrewmembers' authorization to fly.

(2) Certification of current medical examination.

(3) Certification of training and qualifications as required by the contractor's Procedures.

(4) Certification of physiological training, when required.

(5) Certification of applicable egress and survival training required by the contractor's Procedures.

(e) *Records (Ground Personnel).* Maintain a records folder for ground personnel, including fire-fighting, crash/rescue. Include in this folder:

(1) Certification of qualification training.

(2) Certification of continuation training (ground egress, engine runup, towing, crash/rescue, etc.).

(3) Certification of current medical examination, when required.

(f) *Flight Time Records.* Maintain a record of flight time by type, model, and series of aircraft depicting date

and condition of flight for each flight crewmember.

(g) *Access to Records.* Make the forms and records above available to the GFR and other appropriate Government personnel at the request of the GFR.

§ 860.6 Qualification requirements.

(a) *General Qualifications.* Minimum qualifications for approval of contract of flight crewmember, for test and flight categories, are listed below. However, they are only minimums and such factors as total experience, currency of experience, experience in similar aircraft, type of flying experience, and other related factors are evaluated by the GFR before approving a contractor flight crewmember. In all cases, current FAA commercial rating, instrument rating, and class II physical qualification in accordance with Federal Aviation Regulations (FARs) are required.

NOTE: For contractors located in foreign countries, the appropriate civil aviation authority or foreign military department ratings may be substituted for FAA in the following paragraphs; for example, Department of Transport (Canada), Royal Air Force (Great Britain).

(1) Experimental Test Flights and Associated Experimental Ground Operations:

(i) *Pilot.* Not less than 1500 hours first pilot time, to include 100 hours of pilot time during engineering and/or acceptance flights listed under the functional flight category. Graduation from a military TPS is required.

(ii) *Copilot.* Not less than 1000 hours first pilot time, to include 100 hours of pilot time during engineering and/or acceptance flights listed under the functional flight category. Graduation from a military TPS is required.

(iii) *TPS Waiver.* When the contractor pilot or copilot is not a graduate of a military TPS, the following education and longevity requirements must be met as a basis of consideration for TPS waiver. The contractor submits a request for waiver to the GFR. The GFR forwards the request with recommendation, through channels as appropriate, to: Headquarters, U.S. Army Materiel Development and Readiness Command; Headquarters, Air Force Systems Command; Headquarters, Air Force Logistics Command; or Headquarters, Naval Air Systems Command:

(*a*) *Pilot.* Not less than 2000 hours first pilot time (in comparable type aircraft; that is, helicopter, tactical jet, transport/patrol), plus 200 hours of first pilot time during engineering flight tests (plus 10 hours of experimental copilot time when applicable). Education and longevity requirements are as follows:

(*1*) An undergraduate or higher degree in an aerospace engineering science plus 1 year engineering test experience with the contractor; or

(*2*) An undergraduate or higher degree in any other engineering science plus 2 years engineering test experience, one of which must be with the contractor; or

(*3*) Any nonengineering undergraduate or higher degree plus 3 years engineering test experience, one of which must be with the contractor; or

(*4*) No degree, 4 years engineering test experience, one of which must be with the contractor.

(*b*) *Copilot.* Not less than 1000 hours first pilot time (in comparable type aircraft; that is, helicopter, tactical jet, transport/patrol), plus 100 hours/flights first pilot or copilot during engineering test flights. One year of engineering test experience with the contractor.

(2) Other Flights (Engineering, acceptance, support, etc.):

(i) *Pilot.* The pilot must have not less than 1000 hours first pilot time and be qualified in type, model, and, if appropriate, series of aircraft.

(ii) *Copilot.* The copilot must have not less than 500 hours first pilot time and be qualified in type, model, and, if appropriate, series aircraft.

(b) *Qualification in Specific Aircraft.* The following are minimum prerequisites to qualify in any specific type aircraft:

(1) *Pilots* (See § 860.20). These minimums have been established after considering that some contracts require that pilots operate Government aircraft only during VFR and daylight and within a few miles of the home station. If a contract requires flying under more adverse conditions, then

the GFR requires more experience than listed in § 860.20. In all cases, however, Government approval depends on experience and proficiency equal to the type of flying contemplated or conducted. A comprehensive written examination on the applicable type, model, and if appropriate, series of aircraft must be completed. Knowledge of all the aircraft systems, including normal and emergency procedures, must be demonstrated to a qualified instructor pilot approved by the GFR. This demonstration may be made while the aircraft is on the ground or in the air. Initial training will be in a specific model and series aircraft. Emphasize differences in series aircraft and special equipment and systems during training.

(2) *Copilots.* A minimum of 5 hours or three sorties and five dual or supervised landings are required in the type, model, and, if necessary, series aircraft for which approval is requested. The GFR may require more training based upon the type of flying contemplated or conducted. Completion of ground school course is required for type, model, and if necessary, series of aircraft. Reference appropriate Army aircrew training manual, NATOPS for the Navy, and AFM 50-5 and the 51 series manuals for the Air Force. Complete a comprehensive written examination on the applicable type, model and, if appropriate, series of aircraft. Demonstrate a knowledge of all the aircraft systems, including normal and emergency procedures, to a qualified instructor pilot approved by the GFR. This demonstration may be made while the aircraft is on the ground or in the air.

(3) *Other Flight Crewmembers.* These personnel will receive ground and flight training necessary to qualify the individual for the crew position. A comprehensive written examination must be completed. Demonstrate a knowledge of applicable aircraft systems, including normal and emergency procedures, to an instructor qualified in the crew position.

(4) *Flight Personnel (Noncrewmember) and Ground Personnel.* Complete a written examination (to include emergency procedures) applicable to the particular function the individual is to perform, before performing flight operations.

(c) *Currency Requirements.* A minimum of one flight and one landing every 45 days in each type, model, and series aircraft of significant difference in which qualified, is required to ensure currency as either pilot or copilot. To regain currency a takeoff landing must be accomplished under supervision of flight examiner (FE) or instructor pilot (IP). A pilot or copilot who exceeds 90 days without a takeoff and landing requires a flight evaluation as outlined in § 860.7(j). The approving authority determines the grouping of aircraft for currency requirements.

(d) *Physiological Training.* All flight crewmembers/noncrewmembers receive physiological training prior to flight above 12,000 feet, and altitude chamber training for flight above 18,000 feet.

(e) *Egress Training.* The contractor makes sure that all personnel involved in flight operations (as defined in § 860.2(b)(7)) receive egress training annually.

§ 860.7 Flight crewmember and other flight personnel approval.

(a) *Requesting Officials.* Only contractor-designated requesting officials may submit requests for crewmember approval and for qualification training. Send a list of these officials to the GFR. The contractor or subcontractor revises the list as necessary to ensure currency.

(b) *Government Approval.* The contractor official requesting approval for qualification training forwards two copies of the justification to the GFR for approval. The GFR indicates approval by signing both copies, or provides complete rationale if the request is rejected. The original is kept by the GFR and the duplicate returned to the contractor. The contractor makes sure that flight crewmembers do not fly or initiate qualification training before receipt of Government approval:

(1) The GFR is allowed a minimum of 10 work-days for processing, analyzing, and approving or rejecting con-

tractor requests for qualification training.

(2) Following approval, training must be initiated within 90 days and completed without interruption. If interrupted for any reason, coordinate the resumption of training between the GFR and the contractor.

(3) Formal training offered by military agencies may be requested by the contractor on a space available basis. Unless otherwise provided in the contract, the contractor must reimburse the military agencies for such training.

(c) *Request for Approval of Contractor Flight Crewmember (§ 860.18)*—(1) On completion of training, the contractor forwards GFR two completed copies of any Request for Approval of Contract of Flight Crewmember to the GFR. The GFR indicated action taken and signs both copies. The GFR keeps the original in their files and returns the duplicate copy to the contractor within 10 workdays.

(2) The contractor will not use the flight crewmembers in their aircrew specialties until receipt of Government approval.

(d) *Requests for Aircraft Initial Flights:*

(1) The contractor submits a written request (§ 860.18), including the names of the flight crew with current Qualification Training records, the GFR approval for each flight crewmember, and the date of anticipated flight, to the GFR, not less than 90 days before the scheduled initial flight date. The GFR forwards all requests to the appropriate project manager (PM).

(2) The GFR returns the request to the contractor at least 30 days before initial flight date. If disapproved, notify the contractor immediately.

(e) *Contractor Approval.* The contractor's requesting official grants written approval for each contractor and subcontractor noncrewmember required to fly in Government aircraft, before the individual's first flight, with a copy to the GFR. The contractor's requesting official makes sure that each person is needed, and is qualified to serve in a specific capacity while aboard military aircraft. The contractor keeps the written approval on file until the individual is no longer authorized to fly:

(1) The contractor limits approved personnel to those needed to perform on the contract.

(2) If the GFR determines that the written approval has been signed without adequate justification, the contractor is asked to remove the affected individual from flight status. If the contractor still believes that the individual should be allowed to fly, the GFR refers the matter to the ACO. The contractor then makes sure that the above mentioned individuals are not allowed to fly pending the result of any appeal.

(3) The GFR reviews flight personnel assignments each 6 months to ensure that only those needed for the mission have current written approval.

(f) *Contractor Instructor Flight Crewmember:*

(1) Only the most highly qualified, proficient, and experienced personnel are designated as instructor flight crewmembers. The GFR approves the IP and documents the certification of instructor pilot status on DD Form 1821.

(2) Contractor instructor flight crewmembers administer flight evaluations to other flight crewmembers employed by the contractor. Military personnel may receive qualification and recurrency evaluation from the contractor instructor flight crewmembers when deemed appropriate by the approval authority.

(3) Contractor personnel administering these evaluations must be qualified as instructors in accordance with the instructor's criteria as outlined in the contractor's operations procedures. Instructor pilots must have at least 1500 hours first pilot time and be well qualified in the type, model, and series aircraft.

(g) *Termination of Approvals:*

(1) Approvals of flight crewmembers are automatically cancelled on termination of employment, physical disqualification, or revocation of FAA rating. The contractor notifies the GFR of such action by the most expeditious means, and confirms in writing within 10 calendar days.

(2) The contractor may request the GFR to terminate any approval. The

contractor's requesting official makes this request in writing.

(3) The GFR will withdraw the approvals of flight crewmembers and flight personnel who:

(i) Have failed to meet the general requirements of normal flight techniques and to exercise sound judgment in the conduct of test or other flights;

(ii) Have exhibited evidence of personal instability or similar undesirable tendencies, or have conducted themselves contrary to the Government's interests in promoting safety; or

(iii) Have failed to accomplish semiannual proficiency requirements.

(4) The GFR promptly notifies the contractor and ACO when an approval is withdrawn. A written statement by the GFR to the contractor must set forth in detail the reasons for the action. If the contractor believes that the approval should not have been withdrawn, he or she may request a review of the matter by the ACO.

(h) *Verification.* Verification by the GFR as to the qualifications of contractor personnel flying military aircraft at locations other than the principal location is furnished by letter or message to the GFR at the other location. The contents of the transmittal include the level of the pilot's qualification (for example, experimental test, acceptance/functional flight, etc), date of last flight, time in the model being flown, time in the last 90 days, and any other specific information pertinent to the maneuver or mission to be flown at that location.

(i) *GFR Approval.* The GFR will not approve any flight crewmember until the contractor's operations procedures have been approved.

(j) *Requalification.* Failure to maintain proficiency in appropriate aircraft necessitates a flight evaluation by either a contractor, a Government instructor pilot, or a flight examiner. The IP or FE, with GFR approval, determines the extent of the evaluation. Additional flying time is not furnished at Government expense, if a training period is required.

§ 860.8 Flight crewmembers proficiency requirements.

(a) *General Requirements.* Contractor flight crewmembers maintain the proficiency requirements of this section in the designated Government aircraft and crew position. Proficiency generally applies to flights in the same type and series as the Government aircraft. An exception would be similar (airframe, power plant, and flight characteristic) civil aircraft. Small, single and twin engine, propeller driven aircraft are not acceptable unless the contract is for production or maintenance/modification of similar Government aircraft. Where a civilian aircraft equivalent exists, substitution of requirements will be determined by the approving authority. For Government aircraft, where no approved civilian equivalent is available, a minimum of 50 percent of these requirements will be accomplished in that aircraft. The remaining requirements may be accomplished in like category and type aircraft in accordance with § 860.4(b)(4) and/or simulators as addressed below. The requirements of this section are in no way a substitute for any currency or proficiency requirements as specified in applicable FARs as they apply to contractor flight crewmember FAA ratings. When a pilot fails to maintain currency and proficiency, he or she is not permitted to fly as a crewmember of aircraft covered by the Government flight risk clause until appropriate training as approved by the GFR, is accomplished and a satisfactory flight evaluation is completed.

(b) *Minimum Requirements.* As outlined below and in §§ 860.9 through 860.14, minimum requirements apply to the period covered by the flight operation phase of the Government contract. Each flight crewmember performs a prorated share for contracts of less than 6 months duration. Semiannual minimums apply from January through June and from July through December.

(1) Pilots and copilots must perform 80 hours flying time annually. A minimum of 35 hours must be flown to meet one semiannual requirement. The balance of 45 hours would then be required for the other semiannual period to accomplish the annual 80-hour requirement. In lieu of the annual 80-hour requirement and with the approval of the GFR, the contrac-

tor may substitute sorties as shown in the applicable tables to this section. A sortie is a flight of 30 minutes or more and includes the performance of a takeoff and landing after which the engine is stopped, the aircraft is on the surface for 5 minutes, or a pilot/copilot crew change is made. No combination of the sortie minimum and the hourly minimum may be used to satisfy proficiency requirements for a period of 6 months or less. However a semiannual period using the sortie minimum may be combined with a semiannual period using the hourly minimum to determine annual minimums. Within the flight time available, distribute the accomplishment of these proficiency requirements evenly throughout the calendar period.

(2) Up to 50 percent of the semiannual pilot and copilot requirements (hours/sorties, precision approach, nonprecision approach, missed approach, and instrument hours) as listed in the above referenced tables may be substituted through the use of modern flight simulators authorized by the approving authority. The GFR makes sure that the simulator operation and cockpit configuration are similar to the applicable Government aircraft.

(3) There is no requirement for contractor pilots and copilots to fulfill the night, instrument, or approach requirements, except in those cases where night or instrument flying by contractor personnel will be required. Those pilots maintaining night flying proficiency also must maintain instrument proficiency. Pilots and copilots logging night instrument time in the aircraft may simultaneously apply this event to both night time and instrument time requirements. This does not mean that the Government will furnish additional flying time for contractor flight crewmembers; these events will be accomplished in the contractor's flying program under the provisions of the contract. Pilots and copilots who do not maintain night proficiency are prohibited from operating Government aircraft between the hours of official sunset and official sunrise.

(c) *Proficiency evaluation.* Approved contractor flight crewmembers must demonstrate their ability to perform assigned duties. They operate aircraft, aircraft systems (to include egress systems), or perform other assigned aircrew functions safely and effectively. This is accomplished in accordance with the criteria for standardization/evaluation of flight crewmembers in the approved contractor's Procedures. Performs these evaluations in each aircraft in which proficiency is maintained at intervals not to exceed 12 months. They may be conducted as an integral part of the regularly scheduled flights with the evaluation pilot in the same aircraft or chase aircraft when a two-seat aircraft is not available. Document all phases of the flight evaluation on the DD Form 1821. For those aircraft of similar type and model, but dissimilar series designations, the approving authority determines which are considered like aircraft for purposes of performing annual proficiency evaluation.

(d) *Proficiency Evaluator.* These proficiency flight evaluations or instrument flight evaluations (if applicable) are administered to the contractor flight crewmember either by the approved IP/FE's designated by the contractor or by a qualified Government IP/FE at the direction of the cognizant GFR. Contractor pilots are subject to no-notice flight evaluations. When the evaluation is administered by the Government IP or FE, the Government may furnish the flying time necessary to support this requirement.

(e) *Additional Checks.* In conjunction with the flight evaluation, the flight crewmember also demonstrates orally to the IP or FE his or her knowledge of the contractor's Procedures that apply to his or her crew position. In addition, the GFR approved contractor open-book proficiency and closed-book emergency procedure examinations for the aircraft and its associated systems are administered prior to the proficiency flight evaluation. GFR approved Government representatives may periodically administer written examinations to evaluate crewmember's knowledge of the aircraft procedures and systems.

(f) *Multiple Currency.* When the contractor crewmembers are approved for multiple currency, a minimum of

50 percent of the basic table requirements must be accomplished in each aircraft; for example, an individual qualified in three fighter/trainer aircraft requires 15 sorties or 20 hours in each aircraft twice a year.

§ 860.9 Pilot/copilot proficiency requirements for rotary wing aircraft.

Event	Semiannual minimum	Annual minimum
Sorties or hours	35*	80
Landings—day	12	24
Instrument sorties or hours	10/6	20/12
Precision approaches	6 (1 night)	12 (2 night)
Nonprecision approaches	6 (1 night)	12 (2 night)
Missed approaches	2	4 (1 night)
Night sorties or hours	6/4	12/8
Landing—night	6	12
Autorotations—day**		3
Autorotations—night**		1

*Minimum Annual proficiency requirements are 80 hours when not computing on the sortie basis. One semiannual period may be as low as 35 hours providing the other semiannual period makes up the balance of 80 hours annually.

**Conduct emergency procedures only with a military IP or contractor CFI during flight evaluation, and night autorotations only when required by contract.

NOTE: Instrument requirements do not apply to aircraft that are not certified for instrument flight.

§ 860.10 Pilot/copilot proficiency requirements for all tactical fighters, fighter bombers, attack surveillance, trainers, and light aircraft that have a gross weight of less than 12,500 pounds.

Event	Semiannual minimum
Sortie or hours	30 or 35*
Landing—day	15
Landing—night	2
Precision approach	5
Nonprecision approach	5
Missed approach	2
Night hours	5
Instrument hours	8

*Minimum annual proficiency requirements are 80 hours when not computing on the sortie basis, and one semiannual period may be as low as 35 hours providing the other semiannual period made up the balance of 80 hours annually.

§ 860.11 Pilot/copilot proficiency requirements for large cargo, bomber, patrol, and utility aircraft that have a gross weight greater than 12,500 pounds.

Event	Semiannual minimum
Sortie or hours	12 or 35*
Landing—day	6
Landing—night	2
Precision approach	5
Nonprecision approach	5
Missed approach	2
Night hours	5
Instrument hours	8

*Minimum annual proficiency requirements are 80 hours when not computing on the sortie basis, and one semiannual period may be as low as 35 hours providing the other semiannual period made up the balance of 80 hours annually.

§ 860.12 Navigator proficiency requirements for cargo/bomber/patrol unless specifically identified in § 860.13.

Event	Semiannual minimum
Sorties or hours	6 or 30
XC/Nav Leg*	2

*Applicable when required by contract.

§ 860.13 Navigator proficiency requirements for tactical jet fighter, fighter bomber/trainer, such as F-4, F-111, FB-111, F-14, etc.

Event	Semiannual minimum
Sorties or hours	20 or 30
XC/Nav Leg*	3
Instrument interpretation	2

*Applicable when required by contract.

§ 860.14 Flight crewmembers other than identified in §§ 860.9, 860.10, 860.11, and 860.12 as defined in § 860.2(b)(2).

Event	Semiannual minimum
Sorties or hours	6 or 30

§ 860.15 Ground personnel.

(a) *Proficiency Requirements.* Ground personnel performing preflight and postflight inspections,

ground movement and engine run ups, as well as fire, crash, and rescue personnel, must be qualified as outlined in the contractor's approved procedures.

(b) *Criteria.* Unless specified in other contractual provisions, people approved to run up or taxi Government aircraft must meet the following:

(1) Demonstrate, at least semiannually, to an authorized instructor the ability to do those operations needed and authorized.

(2) Have operated the type, model, and series (if appropriate) aircraft at least once during the last 45 days.

§ 860.16 Additional administrative matters.

(a) *Requests for Waivers.* Waivers regarding application of this part to the contractor's performance of a contract or contracts, are forwarded to the ACO, and will include the recommendations of the GFR. The ACO will then send the waiver through channels to the contracting activity, or the requiring activity in those cases where the requiring activity is not the contracting activity (for example, military interdepartmental purchase requests (MIPR)). The contracting activity may require that monetary or other consideration be obtained when contract requirements are waived. Waivers to this part require approval of the HCA or a designee, or the HCA for the requiring activity where the contract is awarded as a result of MIPR.

(b) *Disposition of GFR Records.* Records accumulated by the GFRs are disposed of according to disposition standards published by the military services (AFM 12-50, AR 340-18-11, SECNAVINST 5212.5B, DLAM 5015.1).

(c) *Reports:*

(1) OMB approval 22-R0195 applies to the format for Request for Approval of Qualification Training (§ 860.17).

(2) OMB approval 22-R0196 applies to the format for Request for Approval of Contractor Flight Crewmember (§ 860.18).

(3) OMB approval 22-R0197 applies to DD Form 1821, contractor—Crewmember Record.

(d) *Supply of DD Form 1821:*

(1) *Army.* Obtain from Letterkenny Army Depot, ATTN: SDSLE-AGD, Chambersburg, PA 17201.

(2) *Navy.* Local reproduction is authorized.

(3) *Air Force.* Available through PDO system.

(4) *DLA.* Order according to existing agency procedures.

§ 860.17 Sample format, request for approval for qualification training.

Subject: Request for Government Approval for Aircrew Qualification and Training

To: Government Flight Representative

I. Name ———

Crew Position ———

Aircraft ———

Date of Birth ———

Security Clearance ———

FAA Rating ———

II. Provide a résumé of education background. (High school, name and location; college or university name, location and degree obtained; flight school and date completed; test pilot school and date completed; and special professional schools.)

III. Have you ever served in any branch of the US Military Service? ———

If so, state: Branch ———

Service Dates: From ——— To ———

Last Location ———

Highest Rank ———

SSAN ———

Aero Rating ———

Are you now a member of the Reserves or National Guard? ———

If yes, state: Branch ———

Present Rank ———

IV. Provide a résumé of experience in the flight test field. Include both engineering and aircrew experience by project, type of aircraft, and hours flown.

Flight Phase

V. I certify that I have read and understand all of the contractor's procedures and directives pertinent to the accomplishment of my assigned duty.

———

(Flight Crew Member's Signature)

VI. I have verified the records of ———

———

and it is requested that he be approved for qualification training as a

_____
(Crew Position)
for experimental/functional flights (delete one not applicable) in

_____
type aircraft.

_____
(Type Name of Contractor's Requesting Official)

_____
(Signature of Contractor's Requesting Official)
1 Atch; DD Form 1821
VII. ——Approved ——Disapproved

_____
(Date of Approval or Disapproval)

_____
(Type Name of Govt Flt Rep)

_____
(Sig of Govt Flt Rep)

§ 860.18 Sample format, request for approval of contractor flight crewmember.

Subject: Request for Approval of Contractor Flight Crewmember
To: Government Flight Representative
I. I have verified the records of

_____
(Crewmember's name)
and it is requested that he/she be approved as a

_____
(Crew position)
for experimental/functional (as appropriate) flights in ———— type aircraft.

_____
(Signature of Contractor's Requesting Official and Date)

_____
(Typed Name of Contractor's Requesting Official)
1 Attachment; DD Form 1821
II. I certify that

_____
has satisfactorily flown a proficiency flight check on ———— (Date).

_____
(Signature of Instr Pilot/Flt Examiner)
III. —— Approved —— Disapproved

_____
(Signature of Government Flight Representative)

_____
(Type Name of Government Flight Representative)

_____
(Date).

§ 860.19 Sample format, designating government flight representatives.

(Service Letterhead)

Reply to Attn of:
Subject: Delegation of Authority
To:

1. Pursuant to AR 95-20, NAVAIRINST 3710.1 series, AFR 55-22, and DSAR 8210.1, you are hereby designated primary/alternate Government Flight Representative (as appropriate) and delegated authority to approve contractor personnel and procedures for operating aircraft under your jurisdiction for which the Government, by contract, assumes the risk for loss, damage, or destruction.

2. This authority is granted to you as an individual, and is not to be redelegated. It is effective only so long as you remain physically qualified for flying status and in your present assignment, unless sooner terminated.

3. As the Government flight representative, you shall assure that the procedures contained in AR 95-20, NAVAIRINST 3710.1 series, AFR 55-22, or DSAR 8210.1 and appropriate ASPR provisions including Departmental implementing instructions, are followed in the approval of contractor aircrew personnel and flight operations procedures.

_____
(Signature of Approving Authority)

§ 860.20 Minimum requirements.

Minimum requirements for initial qualification of contractor pilots are the satisfactory completion of written questionnaire and demonstration of knowledge of system, including normal and emergency systems pertaining to the specific mission, design, and series of aircraft to be flown. In addition, the Government flight representative may require night flying (up to 5 hours) and instrument practice (up to 5 hours) or until a satisfactory degree of

proficiency is demonstrated, if contractor pilots are to fly under these conditions.

Aircraft by group	First pilot time for this group (hours) (note 1)	Dual or supervised time before checkout (hours)	Dual or supervised sorties, each including at least one landing (note 2)	Other requirements	Instructor pilot
Reciprocating aircraft					
Single Engine up to 5,000 lbs gross weight.	.....	5	5	Note 3.....	At the discretion of the Government flight representative.
I Single Engine 5,000 to 20,000 lbs gross weight.	.....	5	5	Note 3.....	Do.
II Twin Engine up to 12,000 lbs gross weight.	.....	5	5	Note 3.....	Do.
Four or More Engines.	75	15	10	Note 3.....	Do.
Jets and Turbo Prop					
Single.....	50	5	5	Note 3.....	At the discretion of the Government flight representative.
I Twin Engine	100	5	5	Note 3.....	Do.
II Three or Four Engines.	100	15	10	Note 3.....	Do.
V Multiengine (more than four).	200	20	10	Note 3.....	Do.

Rotary Wing Aircraft

Type of aircraft for group and similar aircraft weight and engine horsepower	Total first pilot time (hours)	Dual time before checkout (hours)	Dual rotations either full touchdown or power recovers as applicable	Other requirements	Instructor pilot
I. 0 to 500 lbs; 10 sorties.	100	10	10	Completion of formal ground school course required.	At the discretion of the Government flight representative.
II. 5,000 to 16,000 lbs; 10 sorties.	250	10	10	Previous completion of a formal ground school course. Completion of specialized or formal ground school course for helicopter concerned. (Note 1).	Do.
III. 16,000 to 40,000 lbs; 10 sorties.	500	10	10	Previous completion of a formal ground school course. Completion of specialized or formal ground school course for helicopter concerned. (Note 2).	Do.
IV. 40,000 lbs; and over 10 sorties.	500	10	10	Previous completion of a formal ground school course. Completion of specialized or formal ground school course for helicopter concerned. (Note 2).	Do.

NOTES: 1. To include checkout time. 2. For qualification in amphibious aircraft, 10 water landings also are required. 3. Completion of ground school course required for mission, design, and, if necessary, series of aircraft. Reference Army Training Circular 1-34. NATOPS for the Navy, and AFM 50-5 and the 51 series manual for the Air Force.

PART 862—U.S. AIR FORCE RESPONSIBILITIES FOR AIRCRAFT LEASED FOR AIRSHOWS

Sec.
862.1 Purpose.
862.2 General policy.
862.3 Terms explained.
862.4 Responsibilities assigned.

AUTHORITY: 10 U.S.C. 8012; DOD Instruction 7230.8, June 9, 1976.

SOURCE: 43 FR 54625, Nov. 22, 1978, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation 60-3, August 30, 1978.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 862.1 Purpose.

This part explains the responsibilities of U.S. Air Force and contractor personnel involved in managing U.S. Air Force aircraft temporarily leased to contractors for taking part in international airshows. It applies to all U.S. Air Force and contractor personnel involved in leasing, managing, or operating these aircraft and implements DODI 7230.8, June 9, 1976.

§ 862.2 General policy.

The U.S. Air Force leases aircraft to contractors for use in international airshows that are beneficial to the defense needs of the Nation if it is not desirable or not practical for the U.S. Air Force to take part in the shows. U.S. Air Force management concern continues for the safety of these valuable weapon systems while they are temporarily leased. The responsibilities outlined in this part are directive on U.S. Air Force personnel. Contractor compliance with the applicable portions of this part will be according to contractual provisions.

§ 862.3 Terms explained.

(a) *Contractor.* The aircraft manufacturers, their employees, and their agents who take part in any phase of managing, operating, or servicing U.S. Air Force aircraft solicited for lease, or leased for taking part in international airshows.

(b) *International airshows.* An international aviation event that features several nations' aircraft.

(c) *Crew rest.* A period of time exclusively provided to make sure that air crewmembers get adequate preflight rest in the interest of flight safety. Chapter 7 of AFR 60-1, Flight Management, establishes minimum crew rest requirements for U.S. Air Force crewmembers.

(d) *Flight profile.* A narrative and graphic description of the entire proposed flight from the first takeoff to final landing, including minimum and maximum airspeeds, G-loads, and altitudes.

(e) *Flight data recorder.* Any device installed on an aircraft to check and record conditions of flight or aircraft performance parameters.

(f) *Visual record.* Photographic or video products.

(g) *Contract monitor.* The U.S. Air Force officer appointed to observe and report how the contractor operates the leased aircraft.

(h) *Contractor's airshow plan.* A full description of how the contractor plans to operate and manage a U.S. Air Force aircraft under consideration for lease to take part in an international airshow.

(i) *Contract completion reports.* Separate reports sent by the lessee and the contract monitor explaining contract compliance problems for use in improving future lease agreements.

§ 862.4 Responsibilities assigned.

(a) *HQ USAF/CV.* (1) Approves all available aircraft taking part in airshows, based on recommendations from the Air Staff agency that has primary responsibility for the aircraft. (Authority to approve the lease requests rests with SAF/AL.)

(2) Recommends lease requests to the Defense Security Assistance Agency (DSAA), through SAF/AL, for approval or disapproval regarding foreign sales or transfers.

(3) Approves adjustments in lease agreements recommended as a result of unsafe or undesirable conditions, or practices that might be made known in the contract completion reports.

(b) *HQ USAF/XOO.* (1) Identifies Air Force aircraft that may be suitable for taking part in international airshows and recommends, through HQ USAF/XO to HQ USAF/CV, those that are operationally available.

(2) Approves all the contractors' airshow plans.

(3) Provides assistance to contractors whose lease requests have been approved for operational aircraft.

(4) Reviews contract completion reports and recommends through HQ USAF/XO to HQ USAF/CV, after appropriate Air Staff coordination, changes to future contracts to correct conditions or practices that are not safe or desirable.

(c) *HQ USAF/RDP or HQ USAF/RDQ.* (1) Identifies Air Force aircraft under their jurisdiction that might be suitable for taking part in international airshows and recommends those that are available to HQ USAF/XOO.

(2) Provides assistance to contractors whose lease requests have been approved for HQ USAF/RDP or HQ USAF/RDQ aircraft.

(d) *HQ USAF/RDC.* (1) Develops determinations and findings for lease requests to get Secretarial approval to lease the aircraft.

(2) Prepares standard lease clauses to make sure that contractors comply with this part and to impose additional suitable controls.

(e) *Air Force Systems Command.* (1) Refers, with appropriate comments and recommendations, lease requests from contractors for taking part in airshows directly to HQ USAF/XOOOF at least 90 days befoe the first lease date.

(2) Appoints an officer who is well qualified in the aircraft as contract monitor. The appointed individual should be released from other duties until the airshow is completed.

(3) Reviews and sends HQ USAF/XOOOF the contract completion reports submitted by the contractor and the contract monitor.

(4) Recommends changes to future contracts to correct conditions or practices that are not desirable.

(f) *Contract monitor.* (1) Observes each aircraft practice and demonstration and monitors compliance with the contract.

(2) Immediately refers significant deviations from the terms of the contract or requirements of this part to AFSC and HQ USAF/XOO.

(3) Sends a contract completion report (RCS: HAF-XOO (AR) 7802) to AFSC no later than 30 days after the aircraft completes participation in the airshow. The report, in letter format to AFSC, must include:

(i) Contract identification.

(ii) Contractor deviations from the lease or this part.

(iii) Recommendations to improve management and safety for future international airshows.

(g) *The contractor.* (1) Provides, with sufficent leadtime (not less than 100 days), the first lease request to the Air Force Plant Representative Office or System Program Office with an air show plan that gives the following information:

(i) Detailed schedule of planned use of the leased aircraft.

(ii) The name (or names) and qualifications of the pilot (or pilots) who are scheduled to fly the aircraft in practice, deployment, or redeployment, and airshow flights.

(iii) Specific information on the qualifications of other crewmembers who may be needed.

(iv) The names, qualifications, and exact duties of contractor supervisory personnel who may take part in any way in managing and controlling the U.S. Air Force aircraft while it is leased.

(v) The intended flight profiles planned for:

(*a*) Favorable weather conditions (specify favorable weather conditions for subject aircraft).

(*b*) Weather conditions less than favorable but above the airshow minimums, AFR's 60-16, General Flight Rules, 60-18, Air Force Participation in Aerial Events and Demonstrations, and the Aircraft Handbook (Technical Order) limitations.

(*c*) Alternate modified profiles, for both weather conditions, that would be flown if the airshow authorities restrict participation due to timing problems.

(vi) Provisions for insuring adequate preflight crew rest for the pilot (or pilots) and other crewmembers. This

must include the way in which the flightcrews (pilots) will be isolated for potential marketing or other pressures that may be expected in the international airshow environment.

(vii) Specific schedule and the names of those attending preflight planning, preflight briefing, and postflight debriefings.

(viii) Procedures for providing a visual record of all practice and airshow demonstrations (16-mm film or ¾-inch video tape).

(ix) Procedures for providing maximum flight data recorder coverage (if subject aircraft is normally flight data recorder equipped) of all practice and airshow demonstrations.

(x) Procedures for making sure the pilot who flies the aircraft wears suitable flight clothing for maneuvers to be performed, for example, anti-G suit.

(2) Sends a contract completion report, within 30 days, to the contracting officer explaining any problems found in carrying out the terms of the contract and recommended changes to improve the safety of U.S. Air Force aircraft leased in the future.

SUBCHAPTER G—ORGANIZATION AND MISSION—GENERAL

PART 865—PERSONNEL REVIEW BOARDS

Subpart A—Air Force Board for Correction of Military Records

Sec.
865.1 Purpose.
865.2 Establishment, function, and jurisdiction of the Board.
865.3 Application for correction.
865.4 Time limit for filing application.
865.5 Other proceedings not stayed.
865.6 Consideration of application.
865.7 Review of application.
865.8 Entitlement to hearing, notice, counsel, witnesses, and access to records.
865.9 Convening the Board.
865.10 Conduct of hearing.
865.11 Continuance.
865.12 Action by the Board.
865.13 Action by the Secretary of the Air Force.
865.14 Staff action.
865.15 Settlement of claims.
865.16 Staff assistance.
865.17 Expenses.
865.18 Changes in procedures.

Subpart B—Air Force Discharge Review Board

865.100 Purpose.
865.101 References.
865.102 Statutory authority.
865.103 Definition of terms.
865.104 Secretarial responsibilities.
865.105 Jurisdiction and authority.
865.106 Application for review.
865.107 DRB panel composition and meeting location.
865.108 Availability of records.
865.109 Procedures for hearings.
865.110 Contentions.
865.111 Decisions.
865.112 Implementation of discharge review decisions.
865.113 Decision process.
865.114 Decisional document.
865.115 Records of DRB proceedings.
865.116 Cases reviewed by the Secretary or his designee.
865.117 Final disposition of the record of proceedings.
865.118 Reconsideration.
865.119 Availability of Discharge Review Board documents for public inspection and copying.
865.120 Privacy Act information.
865.121 Discharge review standards.
865.122 Approval of exceptions to directive.
865.123 Procedures for regional hearings.
865.124 Guidance sheet.
865.125 Report requirement RCS: DD-M (SA) 1489.
865.126 Sample report format.

Subpart A—Air Force Board for Correction of Military Records

AUTHORITY: Secs. 1552, 8012, 70A Stat. 116, 488; 10 U.S.C. 1552, 8012.

SOURCE: 29 FR 13710, Oct. 6, 1964, unless otherwise noted.

§ 865.1 Purpose.

This subpart establishes procedures for making application, and the consideration of applications, for the correction of military records by the Secretary of the Air Force acting through the Air Force Board for the Correction of Military Records (referred to in this part as the "Board").

§ 865.2 Establishment, function, and jurisdiction of the Board.

(a) *Establishment and composition.* Pursuant to 10 U.S.C. 1552, the Air Force Board for the Correction of Military Records has been established in the Office of the Secretary of the Air Force. The Board consists of civilians of the executive part of the Department of the Air Force in such number, not less than three, as may be appointed by the Secretary of the Air Force. Three members present shall constitute a quorum of the Board. The Secretary designates one member as chairman. In the absence or incapacity of the chairman an acting chairman chosen by the Board shall act as chairman for all purposes.

(b) *Function.* The function of the Board is to consider all applications properly before it to determine the existence of an error or an injustice and, when appropriate, to make recommendations to the Secretary of the Air Force.

(c) *Jurisdiction.* The Board shall have jurisdiction to review and determine all matters properly brought before it, consistent with existing law.

[36 FR 1138, Jan. 23, 1971]

90-112 O—82——29

§ 865.3 Application for correction.

(a) *General requirements*—(1) *Submission.* The application for correction should be sumbitted on DD Form 149, "Application for Correction of Military or Naval Record," or exact facsimile thereof and should be addressed to: HQ AFMPC/DPMD, Randolph AFB, TX 78148. Forms and explanatory matter may be obtained from the same activity.

(2) *By whom signed.* Except as provided in paragraph (a)(3) of this section, the application shall be signed by the person requesting corrective action with respect to his record and will either be sworn to or will contain a provision to the effect that the statements submitted in the application are made with full knowledge of the penalty provided by law for making a false statement or claim (18 U.S.C. 287, 1001).

(3) *When a person is unable to submit application himself.* When the record in question is that of a person incapable of making application himself, or whose whereabouts are unknown, or when such person is deceased, for the purpose of bringing the application before the Board, the application may be made by the spouse, parent, heir, or legal representative. Proof of proper interest shall be submitted as may be required by the Board.

[36 FR 1139, Jan. 23, 1971, as amended at 42 FR 16623, Mar. 29, 1977]

§ 865.4 Time limit for filing application.

A claimant, his heir, or legal representative, must file the application for correction of a record with the Secretary of the Air Force within three years after discovery of the alleged error or injustice. Failure to file within the time prescribed may be excused by the Board if it finds it would be in the interest of justice to do so. If the claimant, his heir, or legal representative files an application more than three years after he discovers the error or injustice, he must include in his application his reasons why the Board should find it is in the interest of justice to excuse his failure to file the application within the time prescribed in this section.

§ 865.5 Other proceedings not stayed.

The application to the Board for correction of a record shall not operate as a stay of any proceedings being taken with respect to the person involved.

[29 FR 13710, Oct. 6, 1964. Redesignated at 42 FR 16623, Mar. 29, 1977]

§ 865.6 Consideration of application.

No application will be considered until the applicant has exhausted all effective administrative remedies afforded him by existing law or regulations, and such legal remedies as the Board shall determine are practical and appropriately available to the applicant.

[42 FR 16623, Mar. 29, 1977]

§ 865.7 Review of application.

(a) *Review.* Each application and the available military or naval records pertinent to the corrective action requested will be reviewed to determine whether to authorize a hearing, recommend that the records be corrected without a hearing, or to deny the application without a hearing. The Board will make this determination in all cases except those in which the application has been denied administratively for the reason the applicant has not exhausted all other effective administrative remedies available to him, or for the reason the applicant did not file his application within 3 years after he discovered the alleged error or injustice and did not submit any reason why the Board should find it to be in the interest of justice to excuse the failure to file the application within the prescribed 3 years.

(b) *Denial of application.* The Board may deny an application if it determines that insufficient relevant evidence has been presented to demonstrate the existence of probable material error or injustice, that the applicant has not exhausted other effective administrative or legal remedies available to him, that effective relief cannot be granted, or that the applicant did not file his application within 3 years after he discovered the alleged error or injustice and insufficient evidence has been presented to warrant a

finding that it would be in the interest of justice to excuse the failure to file within the prescribed 3 years. The Board will not deny an application on the sole ground that the record was made by or at the direction of the President or Secretary in connection with proceedings other than proceedings of a board for correction of military or naval records. Denial of an application on the grounds of insufficient relevant evidence to demonstrate probable material error or injustice is without prejudice to further consideration if new relevant evidence is submitted. The applicant will be informed of his privilege to submit newly discovered relevant evidence for consideration.

(c) *Further consideration.* All requests for further consideration will be initially screened by the staff of the Board to determine whether any evidence or other matter (including, but not limited to, any factual allegations or any arguments why the relief should be granted) has been submitted by the applicant that was not in the record at the time of any prior Board consideration. If such evidence or other matter has been submitted, the request shall be forwarded to the Board for a determination in accordance with paragraph (a) of this section. If no such evidence or other matter has been submitted, the applicant will be informed that his request was not considered by the Board because it did not contain any evidence or other matter that was not in the record at the time of any previous Board consideration. Relevancy and weight of any evidence submitted is to be determined by the Board.

(d) *Written proceedings.* When the Board determines that the record should be corrected or that the application be denied, the determination of the Board will be made in writing. The writings (proceedings) will include, but not be limited to, all facts of record, and statement of ground(s) upon which the Board's determination is based. Where the Board concludes complete relief should not be granted, written proceedings will address applicant's claim(s) of constitutional, statutory, and/or regulatory violation rejected by the Board and/or reviewing authority. In those cases involving the characterization of an individual's discharge or dismissal from the military service, the factors required by Air Force regulations to be considered for determination of the character of and reason for the discharge or dismissal in question shall be included.

[36 FR 1139, Jan. 23, 1971, as amended at 42 FR 16624, Mar. 29, 1977; 43 FR 1619, Jan. 11, 1978]

§ 865.8 Entitlement to hearing, notice, counsel, witnesses, and access to records.

(a) *General.* In each case in which the Board determines that a hearing is warranted, the applicant will be entitled to appear before the Board either in person or by counsel of his own selection or in person with counsel.

(b) *Notice*—(1) *To applicant and counsel.* In each case in which a hearing is authorized, the Board will transmit to the applicant and counsel, if any, a written notice stating the time and place of hearing. The notice will be mailed to the applicant and counsel, if any, at least 30 days prior to the date of hearing, except that an earlier date may be set where the applicant waives his right to such notice in writing.

(2) *Notifying Board.* Upon receipt of notice of hearing, the applicant will notify the Board in writing at least 15 days prior to the date set for hearing as to whether he will be present at the hearing and will indicate to the Board the name of counsel, if represented by counsel, and the names of such witnesses as he may intend to call in his behalf. Cases in which the applicant notifies the Board that he does not desire to be present at the hearing will be considered in accordance with § 865.10(b).

(c) *Definition of counsel.* The term "counsel" will be construed to include members in good standing of the Federal bar or the bar of any State, accredited representatives of veterans' organizations recognized by the Administrator of Veterans' Affairs under Title 38, United States Code, section 3402, and such other persons who, in the opinion of the Board, are considered to be competent to present equi-

tably and comprehensively the request of the applicant for correction, unless barred by law.

(d) *Witnesses.* The applicant will be permitted to present witnesses in his behalf at hearings before the Board. It will be the responsibility of the applicant to notify his witnesses and to arrange for their appearance at the time and place set for hearing.

(e) *Access to records*—(1) *Official records.* The applicant shall have access to such official records as are deemed necessary to adequately present his case. It is the responsibility of the applicant to procure such evidence not contained in official records of the Department of the Air Force as he desires to present in support of his case.

(2) *Classified or privileged matter.* Classified or privileged matter shall not be disclosed or made available without express finding of the chairman that such disclosure is required in the case and is not detrimental to the public interest. Such disclosure shall not be contrary to existing law and departmental regulations concerning privileged or classified material. When appropriate, the applicant may be supplied only with a summary or extract of classified matter.

(3) *Copies of records.* This part does not authorize the Board to furnish copies of official records. Request for copies of official records should be submitted in accordance with regulations governing release of information (for example, Part 806).

[29 FR 13710, Oct. 6, 1964, as amended at 36 FR 1139, Jan. 23, 1971; 42 FR 16624, Mar. 29, 1977]

§ 865.9 Convening the Board.

The Board will be convened at the call of the chairman and will recess or adjourn at his order.

§ 865.10 Conduct of hearing.

(a) *By chairman.* The hearings shall be conducted by the chairman, and shall be subject to his rulings that will be designed, insofar as practicable, to accord the applicant an opportunity to make a full and fair presentation of his case. The Board shall not be limited by legal rules of evidence but shall maintain reasonable bounds of competency, relevancy, and materiality.

(b) *When applicant is not present or represented at hearing.* If the applicant, after being duly notified, has indicated to the Board that he does not desire to be present or to be represented by counsel at the hearing, the Board will consider the case on the basis of all the material before it, including, but not limited to, the application for correction filed by the applicant, any documentary evidence filed in support of such application, any brief submitted by or in behalf of the applicant, and all available pertinent records.

(c) *When applicant fails to appear at time and place set for hearing.* If the applicant, after being duly notified, has indicated to the Board that he will be present or be represented by counsel at the hearing, and without good cause and timely notice to the Board, he or his representative fails to appear at the time and place set for the hearing, the Board may consider the case in accordance with the provisions of paragraph (b) of this section, or will make such other disposition of the case as is indicated under the circumstances.

(d) *Testimony.* All testimony before the Board shall be given under oath or affirmation. The proceedings of the Board and the testimony given before it will be recorded verbatim.

[29 FR 13710, Oct. 6, 1964, as amended at 36 FR 1139, Jan. 23, 1971; 42 FR 16624, Mar. 29, 1977]

§ 865.11 Continuance.

The Board may continue a hearing on its own motion. A request for continuance by or in behalf of the applicant may be granted by the Board if a continuance appears necessary to insure a full and fair hearing.

§ 865.12 Action by the Board.

(a) *Deliberations, findings, decisions, and recommendations*—(1) *Deliberations.* Only members of the Board and its staff shall be present during the deliberations of the Board.

(2) *Further information.* During the course of review of the case, when it appears to the Board's satisfaction that the facts have not been fully and fairly disclosed by the records or by

the testimony and other evidence before the Board, the Board may require the applicant to obtain, or the Board may obtain, such further information as it may consider essential to a complete and impartial determination of the facts and issues.

(3) *Findings, decisions, and recommendations.* Following a hearing, the Board will make written findings, decisions, and recommendations. A majority vote of the members present on any matter before the Board will constitute the action of the Board and shall be so recorded.

(4) *Separate communication.* Where the Board considers it necessary to submit comments or recommendations to the Secretary of the Air Force as to matters arising from but not directly related to the issues of any case, such comments and recommendations shall be the subject of separate communication.

(5) *Delegation of authority to correct certain military records.*

(i) The Air Force Board for the Correction of Military Records is authorized to take final action on behalf of the Secretary of the Air Force, under 10 U.S.C. 1552, in approving the correction of military records, provided such action: (*a*) Has been recommended by the Air Staff; (*b*) is agreed to by the Board; and (*c*) falls into one of the following categories:

(*1*) Restoration of leave unduly charged to applicants.

(*2*) Promotion of applicants retroactively, who would have been promoted during regular promotion cycles but were inadvertently or improperly excluded from consideration during such cycles; and adjustment of their pay accounts accordingly.

(*3*) Promotion of applicants to grades held immediately prior to reenlistment who were inadvertently or improperly reenlisted in a lower grade.

(*4*) Awards of basic allowance for subsistence to applicants entitled thereto.

(*5*) Authorizing participation, declination, or modification of an election under the Retired Serviceman's Family Protection Plan and/or the Survivor Benefit Plan where failure to elect to participate, decline to participate or to make an appropriate election was due to inadvertence, misunderstanding or through no fault of the service member.

(*6*) Placement in a temporary or permanent disability retired status, including appropriate percentage of disability, of applicants who were clearly physically unfit and were inadvertently or improperly separated.

(*7*) Award of variable re-enlistment bonus, proficiency pay, enlistment and/or re-enlistment bonus to applicants clearly entitled thereto.

(*8*) Change of home of record where, upon entry on duty, applicants erroneously reported other than actual home.

(*9*) Award of reserve participation credit in computation of years of satisfactory service where such service was improperly or erroneously credited.

(ii) The Executive Secretary of the Board, after assuring compliance with the above conditions, will announce the final action on applications processed under this subdivision.

(b) *Minority report.* In case of a disagreement between members of the Board, a minority report may be submitted, either as to the findings, decision, or the recommendations or to all, including the reasons therefor.

(c) *Record of proceedings.* When the Board has completed its deliberation, a record of proceedings shall be prepared. Such record shall indicate whether or not a quorum was present, the name and vote of each member present. The record shall include the application for relief, a transcript of testimony, if any, briefs and written arguments advisory opinions, if any, minority reports, if any, the findings, conclusions and recommendations of the Board, where appropriate, and all other papers, documents, and reports necessary to reflect a true and complete history of the proceedings. The record so prepared will be certified by the chairman or his designee as being true and complete.

(d) *Withdrawal.* The Board may permit an applicant to withdraw his application without prejudice at any time before its proceedings are forwarded to the Secretary of the Air Force.

[29 FR 13710, Oct. 6, 1964, as amended at 38 FR 30739, Nov. 7, 1973; 42 FR 16624, Mar. 29, 1977]

§ 865.13 Action by the Secretary of the Air Force.

All records of proceedings, except those finalized by the Board under the authority contained in § 865.12(a)(5) or denied by the Board without a hearing, will be forwarded to the Secretary of the Air Force who will direct such action in each case as he determines to be appropriate, which may include the return of the record to the Board for further consideration when deemed necessary. Those cases returned for further consideration will be accompanied by a brief statement setting out the reasons for such action and any specific instructions. If the Secretary's decision is to deny relief, such decision shall be in writing and, unless he expressly adopts in whole or in part the findings, conclusions and recommendations of the Board, he shall include a brief statement of the ground(s) for denial. All Secretarial decisional documents shall be furnished to the applicant and counsel.

[43 FR 1619, Jan. 11, 1978]

§ 865.14 Staff action.

(a) *Returning case to Board.* Upon final action by the Secretary of the Air Force, the complete record in each case will be returned to the Board. The Board will transmit the decision of the Secretary of the Air Force to the Chief of Staff, USAF, for appropriate action.

(b) *Communicating decision to applicant and counsel.* Upon receipt of the record of proceedings after final action by the Secretary of the Air Force, the Board will communicate the decision to the applicant and counsel, if any.

(c) *Informing applicant when administrative action has been completed.* When all necessary administrative action has been completed by the Air Staff, the applicant will be informed of such action by the Air Staff office designated by the Chief of Staff, USAF.

(d) *Written notice to chairman of Board.* Written notice specifying the action taken and the date thereof will be transmitted to the chairman of the Board.

(e) *Filing record of decision of the Secretary of the Air Force.* The record of the decision of the Secretary of the Air Force will not be filed in the military records of the applicant where the effect of such action would be to nullify the relief granted or in those cases wherein the application is denied.

(f) *Release of record of proceedings to the applicant and counsel.* After action on the record by the Secretary of the Air Force, his designee, by the Board acting under the authority in § 865.12(a)(5), or when the Board denies an application without a hearing, the Board will furnish applicant and counsel a copy of the record of proceedings and all decisional documents. Privileged or classified material may be deleted only if a written statement of the bases for deletion is provided. The statement will not reveal the nature of the withheld material.

(g) *Release of record of proceedings to the public.* After action on the record by the Secretary of the Air Force, his designee, by the Board acting under the authority contained in § 865.12(a)(5), or when the Board denies an application without a hearing, the Board will release for public inspection and copying, at a designated reading room within the Washington, D.C. Metropolitan Area, a sanitized and indexed copy of the record of proceedings and all decisional documents. To the extent required and to prevent a clearly unwarranted invasion of personal privacy, identifying details of applicant and other persons will be deleted from all documents. Privileged or classified material may be deleted only if a written statement of the bases for deletion is provided. The statement will not reveal the nature of the withheld material. An index of record of proceedings shall be formulated so as to enable those who represent applicants to isolate from all those decisions that are indexed those cases that may be similar to an applicant's case and which indicate the grounds for which the Board and/or the Secretary granted or denied relief. The index will be published quarterly and available for public inspection and

sale at the reading room. Inquiries concerning the index or reading room should be addressed to Air Force Board for Correction of Military Records, Department of the Air Force, Washington, D.C. 20330.

[29 FR 13710, Oct. 6, 1964, as amended at 42 FR 16624, Mar. 29, 1977; 43 FR 1619, Jan. 11, 1978]

§ 865.15 Settlement of claims.

(a) *Authority*—(1) *Claims authorized to be settled and paid.* The Department of the Air Force is authorized to pay claims in accordance with Title 10, United States Code, section 1552.

(2) *Claims not authorized to be paid.* The Department of the Air Force is not authorized to pay any claim heretofore compensated by Congress through enactment of a private law, or to pay any amount as compensation for any benefit to which the claimant might subsequently become entitled under the laws and regulations administered by the Administrator of Veterans' Affairs.

(b) *Application for settlement*—(1) *Filing claims.* Settlement and payment of claims shall be made only upon a claim of the person whose record has been corrected or of his legal representative, his heirs at law, or his beneficiaries. Such claim for settlement and payment may be filed as a separate part of the application for correction of the record.

(2) *To whom payments will be made if person is deceased.* In case the person whose record has been corrected is deceased, and where no demand is presented by a duly appointed legal representative of the estate, payments otherwise due shall be made to the decedent's spouse, heir or beneficiaries, in order of precedence as prescribed in Title 10, United States Code, section 1552.

(3) *Determining status as proper parties to claim.* Upon request, the applicant or applicants shall be required to furnish requisite information to determine their status as proper parties to the claim for purposes of payment under applicable provisions of law.

(c) *Settlement*—(1) *Basis for settlement.* Settlement of claims shall be based on the decision of the Secretary of the Air Force. Computations of amounts due shall be made by the Comptroller of the Air Force, Hq USAF, or his representative, according to applicable law and regulations. In no case will the amount found due exceed the amount which would otherwise have been paid or become due had no error or injustice occurred. Earnings received from civilian employment during any period for which active duty pay and allowances are payable may be deducted from the settlement. Amounts found due may be reduced by the amount of any existing indebtedness to the Government, arising from military service.

(2) *Nature and amount of various benefits.* Prior to or at the time of payment, the person to whom payments are to be made shall be advised by the Comptroller of the Air Force, Hq USAF, or his representative, as to the nature and amount of the various benefits represented by the total settlement, and shall be advised further that acceptance of such settlement shall constitute a complete release of the claimants involved of any claim against the United States on account of the correction of records.

(d) *Report of settlement.* In every case where payment is made, the amount of such payment and the name of the payee or payees, shall be reported to the chairman of the Board.

[29 FR 13710, Oct. 6, 1964, as amended at 36 FR 1139, Jan. 23, 1971. Redesignated at 42 FR 16624, Mar. 29, 1977]

§ 865.16 Staff assistance.

(a) *Assembling and transmitting available military records.* At the request of the Board, the appropriate staff office will assemble the original or certified copies of all available military records pertinent to the corrective action requested. Such records together with the application and all supporting papers will be transmitted to the Board with a certification from the staff office designated by the Chief of Staff, USAF, that the corrective action requested cannot be granted through administrative action by any staff office.

(b) *Facilities of staff offices.* The facilities of all staff offices will be

made available as required to assist the Board in accomplishing its function. Upon request of the Board, personnel of the Air Staff will be made available for presentation before the Board of matters within their functional areas and which relate to the issues under consideration.

[29 FR 13710, Oct. 6, 1964. Redesignated at 42 FR 16624, Mar. 29, 1977]

§ 865.17 Expenses.

No expense of any nature whatsoever, voluntarily incurred by the applicant, his counsel, his witnesses, or by any other person in his behalf, will be paid by the Government.

[29 FR 13710, Oct. 6, 1964. Redesignated at 42 FR 16624, Mar. 29, 1977]

§ 865.18 Changes in procedures.

The Board may initiate recommendations for such changes in procedures as established herein as may be considered necessary for the proper functioning of the Board. Such changes will be subject to the approval of the Secretary of the Air Force and the Secretary of Defense.

[29 FR 13710, Oct. 6, 1964. Redesignated at 42 FR 16624, Mar. 29, 1977]

Subpart B—Air Force Discharge Review Board

AUTHORITY: Sec. 8012, 70A Stat. 488, Sec. 1553, 72 Stat. 1267, 10 U.S.C. 8012, 1553.

SOURCE: 43 FR 20795, May 15, 1978, unless otherwise noted.

§ 865.100 Purpose.

This subpart establishes policies for the review of discharges and dismissals under DOD Directive 1332.28 "Discharge Review Boards", dated March 29, 1978, and explains the jurisdiction, authority and actions of the Air Force Discharge Review Board. It applies to all Air Force activities. This subpart is affected by the Privacy Act of 1974. The system of records cited in this subpart is authorized by 10 U.S.C. 1553 and 8012. Each data gathering form or format which is required by this subpart contains a Privacy Act statement, either incorporated in the body of the document or in a separate statement accompanying each such document.

§ 865.101 References.

(a) Title 10, U.S.C. 1553.

(b) Title 38, U.S.C. 101, 3103, 3103a, as amended by Pub. L. 95-126, October 8, 1977.

(c) Stipulation of Dismissal, Civil Action No. 76-530, United States Court for the District of Columbia, *"Urban Law Institute of Antioch College, Inc., et al,* Plaintiffs v. *Secretary of Defense, et al,* Defendants," January 31, 1977.

(d) DOD Directive 5400.11, "Personal Privacy and Rights of Individuals Regarding their Personal Records," August 4, 1975.

(e) DOD Directive 1332.14, "Enlisted Administrative Separations," December 29, 1976.

(f) DOD Directive 1332.28, "Discharge Review Boards," March 29, 1978.

(g) Air Force Regulation 35-41, Vol III, Separation Procedures for USAFR Members, October 30, 1975.

(h) Air Force Regulation 36-2, Officer Personnel, Administrative Discharge Procedures, August 2, 1976.

(i) Air Force Regulation 36-3, Officer Personnel, Administrative Discharge Procedures, August 2, 1976.

(j) Air Force Regulation 36-12, Officer Personnel, Administrative Separation of Commissioned Officers and Warrant Officers, July 15, 1977.

(k) Air Force Regulation 39-10, Separation Upon Expiration of Term of Service, for Convenience of Government, Minority, Dependency and Hardship, January 3, 1977.

(l) Air Force Manual 39-12, Separation for Unsuitability, Misconduct, Resignation, or Request for Discharge for the Good of the Service and Procedures for the Rehabilitation Program, September 1, 1966.

(m) Air National Guard Regulation 39-10, Enlisted Personnel—Separation, December 30, 1971.

§ 865.102 Statutory authority.

The Air Force Discharge Review Board (DRB) was established within the Department of the Air Force under section 301 of the Serviceman's

Readjustment Act of 1944, as amended (now 10 U.S.C. 1553) and further amended by Pub. L. 95-126 dated October 8, 1977.

§ 865.103 Definition of terms.

(a) *Discharge Review Board (DRB).* An administrative Board constituted by the Secretary of the Air Force and vested with discretionary authority to review discharges and dismissals under the provisions of Title 10, U.S.C. 1553.

(b) *DRB Panel.* An element of the DRB, consisting of five members, convened to review discharges and dismissals.

(c) *Applicant.* A former member of the Air Force who has been discharged or dismissed administratively in accordance with the directives of the Air Force or by sentence of a special court-martial under Title 10, U.S.C., 801 et seq. (Uniform Code of Military Justice) and, in accordance with statutory and regulatory provisions: (1) Whose case is heard by the DRB at the request of the former member, or, if he or she is dead, or mentally incompetent, the (surviving) spouse, next-of-kin, or legal representative; or (2) whose case is heard on the DRB's own motion, which includes reviews requested by the Veterans Administration under Title 38, U.S.C. 101 and 3103, as amended by Pub. L. 95-126.

(d) *Counsel/Representative.* An individual or agency designated by the applicant who agrees to represent the applicant in a case before the DRB. It includes, but is not limited to: A lawyer who is a member of the bar of a federal Court or of the highest court of a state; an accredited representative designated by an organization recognized by the Administrator of Veterans Affairs; a representative from a state agency concerned with veterans affairs; and representatives from private organizations or local government agencies.

(e) *Discharge.* A general term which includes dismissal and separation or release from active or inactive military status, as well as actions which accomplish a complete severance of all military status. This term also includes the assignment of a reason for such discharge and characterization of service.

(f) *Discharge Review.* The process by which the reason for separation, the procedures followed in accomplishing separation, and the characterization of service are evaluated. This includes determinations made under the provisions of 3103(e)(2) (§ 865.101 (b)).

(g) *Presiding Officer.* The senior line officer of any DRB panel convened for the purpose of conducting discharge reviews.

§ 865.104 Secretarial responsibilities.

(a) The Secretary of the Air Force is responsible for the overall operation of the discharge review program within the Department of the Air Force. The following delegations of authority have been made:

(1) To the Office of the Assistant Secretary of the Air Force (Manpower, Reserve Affairs and Installations) to act for the Secretary of the Air Force in all discharge review actions specified in paragraph (b) of this section.

(2) To the Director, Air Force Personnel Counsel, for operation of all phases of the discharge review program and authority to take action in the name of the Secretary of the Air Force in all discharge review actions except those specified in paragraph (b) of this section.

(b) The following categories of discharge review requests are subject to the review of the Secretary of the Air Force or his designee (see paragraph (a)(1) of this section).

(1) All cases in which a minority of the DRB Panel requests their submitted opinion be forwarded for consideration (see § 865.113 (h)).

(2) Cases when required in order to provide information to the Secretary on specific aspects of the discharge function or of the discharge review function which are of interest to the Secretary.

(i) Any specific case in which the Secretary has an interest.

(ii) Any case which the Director, Air Force Personnel Council believes is of significant interest to the Secretary.

(c) Consideration by the Secretary in such cases will be in accordance with DOD Directive 1332.28 dated March 29, 1978, and § 865.121.

§ 865.105 Jurisdiction and authority.

The DRB has jurisdiction and authority in cases of former military personnel who, at the time of their separation from the Service, were members of the U.S. Army aviation components (Aviation Section, Signal Corps; Air service; Air Corps; or Air Forces) or the U.S. Air Force. The DRB does not have jurisdiction and authority concerning personnel of other arms and services who, at the time of their separation, were assigned to duty with the Army Air Forces or the U.S. Air Force.

(a) The DRB's review is based on the former member's available military records, contentions submitted by the applicant, and on any other evidence that is presented to the DRB. The DRB determines whether the type of discharge or dismissal the former member received is equitable and proper; if not, the DRB instructs the USAF Military Personnel Center (AFMPC) to change the discharge or to issue a new discharge according to the DRB's findings.

(b) The DRB is not authorized to revoke any discharge, to reinstate any person who has been separated from the military service, or to recall any person to active duty.

(c) The DRB, on its own motion, may review a case that appears likely to result in a decision favorable to the former military member, without the member's knowledge or presence. In this case, if the decision is:

(1) Favorable, the DRB directs AFMPC to notify the former member accordingly at the member's last known address.

(2) Unfavorable, the DRB returns the case to the files without any record of formal action. If the former member later files an application for review, the DRB then reconsiders the case without prejudice.

§ 865.106 Application for review.

(a) An applicant may submit a written request for review with such statements, affidavits, or documentation as desired. The request for review shall be made on DD Form 293, Application for Review of Discharge or Separation from the Armed Forces of the United States, which is available at most military installations and regional offices of the Veterans Administration.

(b) A motion or request for review must be made within 15 years after the date of discharge or dismissal except that, in accordance with Pub. L. 95-126, any former member administratively discharged under other than honorable conditions, and otherwise eligible to make application for review may do so without regard to the 15-year limitation period in Title 10, U.S.C. 1553, if such application is received prior to January 1, 1980.

(c) If the member is deceased or mentally incompetent, the spouse, next-of-kin, or legal representative may, as agent for the member, submit the application for the review along with proof of the member's death or mental incompetency.

(d) Applicants forward their requests for review to the National Personnel Records Center—mailing address: NPRC/MPR-AF, 9700 Page Boulevard, St. Louis, Mo. 63132. The National Personnel Records Center forwards all available military records of the former members to AFMPC for further processing to the DRB.

(e) Withdrawal of Application. An applicant shall be permitted to withdraw an application without prejudice at any time before the scheduled review.

§ 865.107 DRB Panel composition and meeting location.

(a) The Panel consists of five members, with the senior line officer acting as the presiding officer. The presiding officer convenes, recesses and adjourns the Panel.

(b) In addition to holding hearings in Washington, D.C., the DRB, as a convenience to applicants, periodically conducts hearings at selected locations throughout the Continental United States. Reviews are conducted at locations central to those areas with the greatest number of applicants. A continuing review and appraisal is conducted to ensure the selected hearing locations are responsive to a majority of applicants. Administrative details and responsibilities for traveling panels are outlined in § 865.123.

§ 865.108 Availability of records.

(a) Prior to a review, applicants or other designated representatives may obtain copies of military records by submitting a Standard Form 180, Request Pertaining to Military Records, to the National Personnel Records Center (NPRC), 9700 Page Boulevard, St. Louis, Mo. 63132. The request must be submitted prior to the time the DD Form 293 is submitted, since, once the DD Form 293 is submitted, the records will be transferred to AFMPC and will not be available to NPRC for reproduction.

(b) If the DRB is not authorized to provide copies of documents that are under the cognizance of another governmental department, office or activity, applications for such information must be made by the applicant to the cognizant authority. The DRB shall advise the applicant of the mailing address of the governmental department, office, or activity to which the request should be submitted.

(c) In the event that the military records relevant to the discharge review are not available at the agency having custody of the records, the applicant shall be notified of the situation and requested to provide such information and documents as may be desired in support of the request for discharge review. A period of not less than 30 days shall be allowed for such documents to be submitted. At the expiration of this time, the review may be conducted with information available to the DRB.

(d) The DRB may take steps to obtain additional evidence material to the discharge review under consideration beyond that found in the military records or submitted by the applicant, if a review of available evidence suggests certain aspects of the review would be incomplete without the additional information or when the applicant presents testimony or documents which require additional information to evaluate properly. Such information shall be made available to the applicant, upon request, with appropriate modifications regarding classified material.

(e) Prior to initiation of the decision process specified in § 865.113 the applicant and/or counsel/representative is entitled to request access to the records to be considered by the DRB in the discharge review.

(1) At a reasonable time prior to the initiation of the decision process, in any case heard on request of an applicant, the DRB shall provide the applicant and/or counsel/representative with a notice of the availability of all regulations and documents to be considered in the discharge review, except for documents in the military records and any documents submitted by the applicant when the DRB has taken action under § 865.108(d) to obtain such documents for use on the discharge review. The DRB shall also notify the applicant and/or counsel/representative: (*a*) Of the right to examine such documents or to be provided with copies of the documents upon request, (*b*) of the date by which such requests must be received, and (*c*) of the opportunity to respond within a reasonable period of time to be set by the DRB.

(2) When necessary to acquaint the applicant with the substance of a classified document, the classifying authority, on the request of the DRB, shall prepare a summary of or extract from the document deleting all references to sources of information and other matters, the disclosure of which, in the opinion of the classifying authority, would be detrimental to the national security interests of the United States. Should preparation of such summary be deemed impracticable by the classifying authority, information from the classified source shall not be considered by the DRB in its review of the case.

(f) Air Force regulations may be obtained, for a fee, by contacting the Chief, Central Base Administration at any major Air Force installation, or by writing the Armed Forces Discharge Review/Correction Board Reading Room, The Pentagon Concourse, Washington, D.C. 20310.

§ 865.109 Procedures for hearings.

(a) The applicant is entitled, by law, to appear in person at his or her request before the DRB in open session and to be represented by counsel of his or her own selection. The applicant

also may present such witnesses as he or she may desire.

(1) There are three methods of presenting a case before the Discharge Review Board. These are:

(i) Nonpersonal appearance cases—when an applicant indicates that he or she does not desire to appear at the DRB, and does not desire to be represented by counsel.

(ii) Personal appearance cases—when an applicant desires to appear in person with or without counsel.

(iii) Nonpersonal appearance with counsel—when an applicant does not desire to appear in person but does want to be represented by counsel.

(2) The Government does not compensate or pay the expenses of the applicant, applicant's witnesses, or counsel.

(3) All applicants are provided a guidance sheet (§ 865.124), which suggests various types of information which could assist in the presentation of his/her case to the DRB.

(4) A summary of the available military records of the applicant is prepared for use by the DRB in the review process. A copy of this summary is available to the applicant and/or his or her counsel upon request.

(5) When an applicant has requested a personal appearance, the DRB sends the applicant (and designated counsel, if any) written notice of the hearing time and place. Evidence of such notification will be placed in the applicant's record.

(6) Personal appearance hearings shall be conducted with recognition of the rights of the individual to privacy. Accordingly, presence at hearings of individuals other than those whose presence is required will be limited to persons authorized by the presiding officer and/or expressly requested by the applicant, subject to reasonable limitations based upon available space.

(7) Except as authorized or directed by the Secretary of the Air Force, further opportunity for personal appearance shall not be made available to an applicant who requests a hearing and who, after being duly notified of the time and place of the hearing, fails to appear at the appointed time, either in person or by representative, not having made a prior, timely request for a continuance or withdrawal of the application. In such cases, the applicant shall be deemed to have waived the right to a personal appearance and the DRB shall complete its review of the discharge based upon the evidence of record. Further request for a personal hearing shall not be granted unless the applicant can demonstrate that the prior failure to appear or to request continuance or withdrawal of the application was due to circumstances beyond the applicant's control.

(8) Continuances and postponements:

(i) A continuance of a discharge review hearing may be authorized by the presiding officer of the panel concerned, provided that such continuance is of reasonable duration and is essential to achieving a full and fair hearing. Where a proposal for continuance is indefinite, the pending application shall be returned to the applicant with the option to resubmit when the case is fully ready for review.

(ii) Postponements of scheduled reviews normally shall not be permitted other than for demonstrated good and sufficient reason set forth by the applicant in a timely manner, or for the convenience of the government.

(b) The presiding officer ensures that hearings are conducted to afford full and fair inquiries by the DRB panel.

(1) The panel members and recorder are sworn as are the applicant and witnesses if they decide to testify under oath.

(2) All parts of an applicant's military record that may be viewed by the panel members are made available to the applicant and his or her counsel.

(c) Formal rules of evidence shall not be applied in DRB proceedings. The presiding officer shall rule on matters of procedure and shall insure that reasonable bounds of relevancy and materiality are maintained in the taking of evidence and presentation of witnesses. Witnesses may present evidence to the DRB panel either in person or by affidavit. If a witness testifies under oath or affirmation, he or she is subject to examination by panel members.

(d) There is a presumption of regularity in the conduct of Governmental affairs. This presumption can be applied in any review unless there is substantial credible evidence to rebut the presumption.

§ 865.110 Contentions.

(a) Applicants must state clearly and specifically any contention(s) and/or issue(s) of fact, law or discretion having a bearing on their case in order for a written determination to be made in accordance with § 865.114(b)(4). A DD Form 293 provided for this purpose must be completed or amended prior to the DRB's decision.

(b) In addition, the DRB shall consider such issues of fact, law, or discretion as are discerned by the DRB in the discharge review process.

(c) The DRB shall make findings and conclusions with respect to the contentions and issues as required by § 865.114(b)(4).

§ 865.111 Decisions.

On the basis of its findings and conclusions, the DRB shall record its decision as to whether relief should be granted. The nature of any change shall be specified clearly.

§ 865.112 Implementation of discharge review decisions.

A written notification shall be issued to implement the decision of the DRB, or that of higher authority, in each discharge review case.

§ 865.113 Decision process.

(a) The DRB panel shall meet in plenary session to review discharges and exercise its discretion on a case-by-case basis in applying the standards set forth in this subpart.

(b) The presiding officer is responsible for the conduct of the discharge review. The presiding officer shall convene, recess, and adjourn the DRB panel, as appropriate, and shall maintain an atmosphere of dignity and decorum at all times.

(c) Each panel member shall act under oath or affirmation requiring careful, objective consideration of the application. Panel members are responsible for eliciting all facts necessary for a full and fair hearing. They shall consider all relevant material and competent information presented to them by the applicant. In addition, they shall consider available military records, together with such other records as may be in the files and relevant to the issues before the DRB.

(d) If the applicant does not appear in person and the designated counsel/representative does not appear in the applicant's behalf, the DRB shall review the application on the basis of available military records, documentary evidence submitted by or on behalf of the applicant, and any other relevant evidence.

(e) Application of Standards.

(1) When the DRB determines that an applicant's discharge was improper, the DRB will determine which reason for discharge should have been assigned based upon the facts and circumstances properly before the discharge authority in view of the regulations governing reasons for discharge at the time the applicant was discharged. Unless it is also determined that the discharge was inequitable, any change will be based on the evaluation of the applicant's overall record of service and the relevant Air Force regulations.

(2) When the board determines that an applicant's discharge was inequitable, any change will be based on the evaluation of the applicant's overall record of service and relevant regulations.

(f) Voting shall be conducted in closed session, a majority of the five members' votes constituting the DRB panel's decision.

(g) Details of closed session deliberations of a DRB panel are privileged information and shall not be divulged.

(h) A formal minority opinion may be submitted in instances of disagreement between members of a panel. The opinion must cite findings, conclusions and reasons which are the basis for the opinion. The complete case with the majority and minority recommendations will be submitted to the Director, Air Force Personnel Council. If requested, the Director will forward the complete case with his recommendation to the Office of the Assistant Secretary of the Air Force

(Manpower, Reserve Affairs and Installations) for final resolution.

(i) The DRB may request advisory opinions from staff offices of the Air Force. These opinions are advisory in nature and are not binding on the DRB in its decision making process.

§ 865.114 Decisional document.

(a) A decisional document shall be prepared for each review conducted by the DRB.

(b) At a minimum, this decisional document shall contain:

(1) The date, character of, and reason for the discharge or dismissal certificate issued to the applicant upon separation from military service, including the specific regulatory authority under which the discharge or dismissal certificate was issued.

(2) The circumstances and character of the applicant's service as extracted from military records and information provided by other government authority or the applicant, such as, but not limited to:

(i) Date of enlistment.

(ii) Period of enlistment.

(iii) Age at enlistment.

(iv) Length of service.

(v) Periods of unauthorized absence.

(vi) Conduct and efficiency ratings (numerical or narrative).

(vii) Highest rank achieved.

(viii) Awards and decorations.

(ix) Educational level.

(x) Aptitude test scores.

(xi) Incidents of punishment pursuant to Article 15, Uniform Code of Military Justice (including nature and date of offense or punishment).

(xii) Conviction by court-martial.

(xiii) Prior military service and type of discharge received.

(3) Reference to the written brief, documentary evidence, and testimony presented to the DRB by or on behalf of the applicant.

(4) A statement of findings, conclusions, and reasons consisting of:

(i) Findings of all issues of fact, law, or discretion upon which the decision on the application is based, including those factors required by applicable Air Force regulations to be considered for determination of the character of and reason for the discharge or dismissal certificate in question.

(ii) Findings and conclusions on all other issues of fact, law, or discretion raised by the applicant, including claims by the applicant that statutory, regulatory, and/or constitutional provisions were violated, and such other claims made by the applicant, which in the opinion of the DRB would have warranted greater relief than that afforded the applicant by the DRB's decision if resolved in the applicant's favor.

(iii) Conclusions as to whether or not any change, correction, or modification should be made in the type or character of the discharge or dismissal and/or the reason and authority for the discharge or dismissal; and, if so concluded, the particular changes, corrections, or modifications that should be made.

(iv) A statement of the reasons for the findings and conclusions made in accordance with paragraph (b)(4) (i) through (iii) of this section.

(5) Advisory opinions, including those containing factual information, where such opinions have been relied upon for final decision or have been accepted as a basis for rejecting any of the applicant's claims. Such advisory opinions or relevant portions thereof that are not fully set forth in the statement of findings, conclusions, and reasons shall be incorporated by reference therein. A copy of such opinions shall be appended to the decision and included in the record of proceedings.

(6) A record of the DRB panel members' names and votes.

(7) The DRB's decision and written minority opinions or reports, if any.

(8) A listing of the contentions or issues presented by the applicant, if not included elsewhere.

(9) An authentication of the document by an appropriate official.

(10) Issuance of decisions following discharge review. The applicant and counsel/representative, if any, shall be provided with a copy of the decisional document and of any further action in review. Final notification of decisions shall be issued to the applicant with a copy to the counsel/representative, if any.

(i) Notification to applicants, with copies to counsel/representative, shall normally be made through the U.S.

Postal Services. Such notification shall consist of a notification of decision, together with a copy of the decision document.

(ii) Notification to AFMPC shall be for the purpose of appropriate action and inclusion of review matter in military records. Such notification shall bear appropriate certification of completeness and accuracy.

(iii) Actions on review by the Secretary of the Air Force, when occurring, shall be provided to the applicant and counsel/representative in the same manner as the notification of the review decision.

§ 865.115 Records of DRB proceedings.

(a) When the proceedings in any review have been concluded, a record thereof will be prepared. Records may include written records, electromagnetic records, or a combination thereof.

(b) At a minimum, the record will include the following:

(1) The application for review.

(2) A record of the testimony in verbatim, summarized, or recorded form at the option of the DRB.

(3) Documentary evidence or copies thereof considered by the DRB other than the military record.

(4) Briefs/arguments submitted by or on behalf of the applicant.

(5) Advisory opinions considered by the DRB, if any.

(6) The findings, conclusions, and reasons developed by the DRB.

(7) Notification of the DRB's decision to the cognizant custodian of the applicant's records, or reference to the notification document.

(8) Minority reports, if any.

(9) A copy of the decisional document.

§ 865.116 Cases reviewed by the Secretary or his designee.

Cases reviewed by the Secretary or his designee shall be considered in accordance with the standards set forth in the DOD Directive and this subpart.

(a) On every decision of the DRB that is reviewed by the Secretary or his designee, the decision on review shall be made in writing.

(b) In every case, the decision of the DRB and the reviewing authority, if any, shall include a statement of findings, conclusions, and reasons, except where the reviewing authority expressly adopts, in whole or in part, the statement of findings, conclusions and reasons of the DRB. Similarly, where the reviewing authority adopts the DRB's statement of findings, conclusions and reasons, there is no requirement for duplicative publication and indexing.

§ 865.117 Final disposition of the record of proceedings.

The original record of proceedings and all appendices thereto shall in all cases be incorporated in the military record of the applicant and returned to the custody of the NPRC, St. Louis, Mo.

§ 865.118 Reconsideration.

A discharge review shall not be subject to reconsideration except:

(a) Where the only previous consideration of the case was on the motion of the DRB.

(b) When the original discharge review did not involve a personal hearing and a personal hearing is now desired, and the provisions of § 865.109(a)(7) do not apply.

(c) Where changes in discharge policy are announced subsequent to an earlier review of an applicant's discharge, and the new policy is made expressly retroactive.

(d) Where the DRB determines that policies and procedures under which the applicant was discharged differ in material respects from policies and procedures currently applicable on a service-wide basis to discharges of the type under consideration: *Provided*, That such changes in policies or procedures represent a substantial enhancement of the rights afforded an applicant in such proceedings.

(e) Where an individual is to be represented by a counsel/representative, and was not so represented in any previous consideration of the case.

(f) Where the case was not previously considered under uniform standards published pursuant to Pub. L. 95-126 and application for such consideration

is received before January 1, 1980, or within 15 years after the date of discharge.

(g) On the basis of presentation of new, substantial, relevant evidence not available to the applicant at the time of the original review. The decision as to whether evidence offered by an applicant in support of a request for reconsideration is in fact new, substantial, relevant, and was not available to the applicant at the time of the original review will be based on a comparison of such evidence with the evidence considered in the previous discharge review. If this comparison shows that the evidence submitted would have had a probable effect on matters concerning the propriety or equity of the discharge, the request for reconsideration shall be granted.

§ 865.119 Availability of Discharge Review Board documents for public inspection and copying.

(a) A copy of the decisional document prepared in accordance with § 865.114 shall be made available for public inspection and copying promptly after a notice of final decision is sent to the applicant.

(b) To the extent required to prevent a clearly unwarranted invasion of personal privacy, identifying details of the applicant and other persons will be deleted from documents made available for public inspection and copying. Names, addresses, social security numbers, and military service numbers must be deleted. Written justification shall be made for all other deletions and shall be available for public inspection.

(c) Any other privileged or classified material contained in or appended to any documents required to be furnished the applicant and counsel/representative or made available for public inspection and copying may be deleted therefrom only if a written statement of the basis for the deletions is provided the applicant and counsel/representative and made available for public inspection. It is not intended that the statement be so detailed as to reveal the nature of the withheld material.

(d) DRB documents made available for public inspection and copying shall be located in the Armed Forces Discharge Review/Correction Boards Reading Room. The documents shall be indexed in usable and concise form so as to enable the public and those who represent applicants before the DRBs to isolate from all these decisions that are indexed those cases that may be similar to an applicant's case and that indicate the circumstances under and/or reasons for which the DRB or the Secretary of the Air Force granted or denied relief.

(1) The reading file index shall include, in addition to any other items determined by the DRB, the case number, the date, character of, reason for, and authority for the discharge. It shall further include the decisions of the DRB and reviewing authority, if any, and the issues addressed in the statement of findings, conclusions and reasons.

(2) The index need be permanently maintained only at permanent DRB regional locations. This index will be made available at sites selected for traveling board hearings for such periods as the DRB is present and in operation. Applicants at such sites will be so advised in the notice of scheduled hearings.

(3) The Armed Forces Discharge Review/Correction Boards Reading Room shall publish indexes quarterly. The DRB will be responsible for timely submission to the Reading Room of individual case information required for update of the indexes. These indexes shall be available for public inspection and/or purchase at the Reading Room. This information will be provided to applicants in the notice of scheduled hearings.

(4) Correspondence relating to matters under the cognizance of the Reading Room (including requests for purchase of indexes) shall be addressed to:

Armed Forces Discharge Review/Correction Board Reading Room, The Pentagon Concourse, Washington, D.C. 20310.

§ 865.120 Privacy Act information.

Information protected under the Privacy Act is involved in discharge review functions. The provisions of 32 CFR 286a will be observed throughout

the processing of a request for review of discharge or dismissal.

§ 865.121 Discharge review standards.

(a) *Objective review.* The objective of a discharge review is to examine the propriety and equity of the applicant's discharge and to effect changes, if necessary. The standards of review and the underlying factors which aid in determining whether the standards are met shall be historically consistent with criteria for determining honorable service. No factors shall be established which require automatic change or denial of a change in a discharge. Neither the DRB or the Secretary of the Air Force shall be bound by any methodology of weighting of the factors in reaching a determination. In each case, the DRB or Secretary of the Air Force shall give a full, fair, and impartial consideration to all applicable factors prior to reaching a decision.

(b) *Propriety.* A discharge shall be deemed to be proper unless, in the course of discharge review, it is determined that:

(1) There exists an error of fact, law, procedures, or discretion associated with the discharge at the time of issuance; and that the rights of the applicant were prejudiced thereby, (such error shall constitute prejudicial error, if there is substantial doubt that the discharge would have remained the same if the error had not been made); or

(2) A change in policy by the Air Force made expressly retroactive to the type of discharge under consideration, requires a change in the discharge.

(c) *Equity.* A discharge shall be deemed to be equitable unless:

(1) In the course of a discharge review, it is determined that the policies and procedures under which the applicant was discharged differ in material respects from policies and procedures currently applicable on a service-wide basis to discharges of the type under consideration: *Provided,* That:

(i) Current policies or procedures represent a substantial enhancement of the rights afforded an applicant in such proceedings; and

(ii) There is substantial doubt that the applicant would have received the same discharge if relevant current policies and procedures had been available to the applicant at the time of the discharge proceedings under consideration;

(2) At the time of issuance, the discharge was inconsistent with standards of discipline in the Air Force; or

(3) In the course of a discharge review, it is determined that relief is warranted based upon consideration of the applicant's military record and other evidence presented to the DRB viewed in conjunction with the factors listed in this subsection and the regulations under which the applicant was discharged, even though the discharge was determined to have been otherwise equitable and proper at the time of issuance. Areas of consideration include, but are not limited to:

(i) Quality of Service, as evidenced by factors such as:

(*a*) Service history, including date of enlistment, period of enlistment, highest rank achieved, conduct or efficiency ratings (numerical or narrative).

(*b*) Awards and decorations.

(*c*) Letters of commendation or reprimand.

(*d*) Combat service.

(*e*) Wounds received in action.

(*f*) Record of promotions and demotions.

(*g*) Level of responsibility at which the applicant served.

(*h*) Other acts or merit that may not have resulted in a formal recognition through an award or commendation.

(*i*) Length of service during the period which is the subject of the discharge review.

(*j*) Prior military service and type of discharge received or outstanding post-service conduct to the extent that such matters provide a basis for a more thorough understanding of the performance of the applicant during the period of service which is the subject of the discharge review.

(*k*) Convictions by court-martial.

(*l*) Record of non-judicial punishment.

(*m*) Convictions by civil authorities while a member of the Air Force, reflected in the discharge proceedings or otherwise noted in military records.

90-112 O—82——30

(n) Record of periods of unauthorized absence.

(o) Records relating to a discharge in lieu of courtmartial.

(ii) Capability to serve, as evidenced by factors such as:

(a) *Total capabilities.* This includes an evaluation of matters such as age, educational level, and aptitude scores. Consideration may also be given to whether the individual met normal military standards of acceptability for military service and similar indicators of an individual's ability to serve satisfactorily, as well as ability to adjust to the military service.

(b) *Family/personal problems.* This includes matters in extenuation or mitigation of the reason for discharge that may have affected the applicant's ability to serve satisfactorily.

(c) *Arbitrary or capricious actions.* This includes actions by individuals in authority which constitute a clear abuse of such authority and which, although not amounting to prejudicial error, may have contributed to the decision to discharge or to the characterization of service.

(d) *Discrimination.* This includes unauthorized acts as documented by records or other evidence.

§ 865.122 Approval of exceptions to directive.

Only the Secretary of the Air Force may authorize or approve a waiver of, or exception to, any part of this subpart.

§ 865.123 Procedures for regional hearings.

(a) Composition of the panel for these hearings consists of three members from Washington with augmentation by two members from nearby local Air Force resources.

(b) The major commands of the Air Force installation selected are required to task subordinate units to provide two colonels on an additional duty basis, to serve as members of the DRB. Detailed information must be provided to the Chief, Personnel Division, of the installation involved before each hearing date.

(c) The administrative staff in Washington processes all cases for regional hearings, establishes hearing dates, and returns the records to the Military Personnel Center at Randolph AFB, Tex., when the case is finalized. Detailed information for the local panel members if provided to the Directors of Personnel of the bases involved approximately four weeks before each hearing date.

(d) Travel and per diem for all DRB panel members are funded by the Secretary of the Air Force Personnel Council (SAF/PC). The funding cite number is included in the information provided to the local panel members before each hearing date.

§ 865.124 Guidance sheet.

Regardless of the reason for your discharge, the suggested evidence listed below under No. 1 would assist in the presentation of your case to the Discharge Review Board. If you can recall the specific reason for discharge (types are shown in left hand column), additional suggested evidence is shown by the corresponding number in the right-hand column.

Reason for Discharge	Evidence Needed by the Board
1. Discharge for any reason.	1. Your statement on what happened that caused your discharge, what motivated you. Current police record (statement from local police department). Statement from schools and colleges (if you are attending or have completed any school or college since discharge, provide a copy of your transcript, diploma or letter of accomplishment from the school). Employment record (be specific—list jobs in order held—who supervisor was—reason for leaving job). Participation in civic or community affairs. Character references (frank statements about your character from members of your family, family friends, employer(s), family doctor or pastor, and other responsible people in the community).
2. General ineffectiveness (unsuitability, unfitness).	2. Indication that your attitude, ability, bearing and behavior are now improved. Indication that your capacity towards organizational loyalty, willingness to work and dedication are improved.
3. Financial irresponsibility.	3. Verification of good credit (statements from banks, lending institutions, department stores, etc., that would attest to your financial condition). Statement from you on how your previous debts were resolved (paid off, bankruptcy, etc.).

Reason for Discharge	Evidence Needed by the Board
4. Alcoholism	4. Verification of good credit (statement from banks, lending institutions, department stores, etc. that would attest to your financial condition). Membership in Alcoholics Anonymous—how long. Medical statement (statement by competent authority on your physical condition).
5. Character and behavior disorder.	5. Medical statement (statement by competent authority on your physical and mental condition).
6. Hardship	6. If discharge was for financial reasons: Verification of good credit (statement from banks, lending institutions, department stores, etc., that would attest to your financial condition). If discharge was for medical reasons: A medical statement from competent medical authority disclosing the hardship no longer exists.
7. Civil convictions.	7. If applicable: Statement by competent authority that a pardon has been granted.
8. Homosexuality.	8. Circumstances surrounding act or acts for which discharged: Was the applicant seduced or coerced by someone in authority? Was alcohol a factor? Were there any familial or pre-service factors? Medical statement, if you have been receiving psychotherapy.
9. Drug abuse	9. Statement concerning the underlying causes of the offense: Was it because of youthful curiosity? Did you have a need to be a member of the gang? Did you have the habit prior to enlistment? Medical statement by competent medical authority if you have been receiving psychiatric treatment. Verification of good credit (statements from banks, lending institutions, department stores, etc., that would attest to your financial condition).
10. Conscientious objector.	10. Statement from applicant concerning past views and what has happened to change them.
11. Enuresis	11. Medical statement by competent medical authority on the applicant's physical condition.
12. Exceeding weight standards.	12. Medical statement by competent medical authority on the applicant's physical condition—specifically, your present weight and height.

Fire-related case: If you are advised that all or part of your records were destroyed by the fire in July 1973 at the National Personnel Records Center, it is doubly important that you provide as much evidence as possible to support your request. In these cases the Board may have limited or no record evidence available to it and must rely heavily on evidence presented by the applicant.

§ 865.125 Report requirement, RCS: DD-M (SA) 1489.

(a) Semi-annual reports will be submitted by the 20th day of April and October for the preceding six-month reporting period (October 1 through March 31 and April 1 through September 30).

(b) The reporting period will be inclusive from the first through the last days of each reporting period.

(c) The report will contain four parts: (1) Part I—Regular Cases; (2) Part II—Reconsideration of President Ford's memorandum of January 19, 1977/Special Discharge Review Program Cases; (3) Part III—Cases heard under Pub. L. 95-126 by waiver of Title 10, U.S.C. 1553 with regard to the statute of limitations; and (4) Part IV—Total Cases Heard.

(d) Report will be prepared by the Air Force Discharge Review Board and submitted to the Army Discharge Review Board (executive agent for DRB matters).

§ 865.126 Sample report format.

SAMPLE REPORT FORMAT—SUMMARY OF STATISTICS FOR AIR FORCE DISCHARGE REVIEW BOARD

(FY ———)

RCS: DD-M(SA) 1489

Name of Board	Nonpersonal Appearance			Personal Appearance			Total		
	Appl.	No. Approved	% Appr.	Appl.	No. Approved	% Appr.	Appl.	No. Approved	% Appr.

NOTES: Identify numbers separately for traveling panels, regional panels or hearing examiners, as appropriate.
Use of additional footnotes to clarify or amplify the statistics being reported is encouraged.

SUBCHAPTER H—[RESERVED]

SUBCHAPTER I—MILITARY PERSONNEL

PART 880—OBTAINING MEDICAL, DENTAL, AND VETERINARY CARE FROM CIVILIAN SOURCES

Subpart A—Medical, Dental and Veterinary Care From Civilian Sources

Sec.
880.0 Purpose.
880.2 Explanation of terms.
880.4 Policies, responsibilities, and general instructions.
880.6 Care authorized from civilian sources.
880.8 For whom authorized.
880.10 Who authorizes.
880.12 When not authorized.
880.14 Emergencies.
880.16 Special examinations and appliances.
880.18 Information required on statements and bills from civilian hospitals, physicians, dentists, and nurses.
880.20 Veterinary care authorized.
880.22 Who authorizes veterinary care.
880.24 Bills for veterinary services.

Subpart B—Control of Ambulances at Lackland AFB, Tex.

880.35 Purpose.
880.36 Use of ambulances.
880.37 Dispatch of ambulances.
880.38 Ambulance driver requirements.

AUTHORITY: 10 U.S.C. 8012.

Subpart A—Obtaining Medical, Dental and Veterinary Care From Civilian Sources

SOURCE: 45 FR 31113, May 12, 1980, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation 168-10, March 31, 1980.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 880.0 Purpose.

This part tells how to authorize and provide reimbursement at Air Force expense for:

(a) Essential medical and dental care from civilian sources when care from a government facility is unavailable for (1) Air Force members on active duty; (2) NATO Air Force military personnel stationed in or passing through the United States in connection with official duties;

(b) Necessary supplemental medical supplies and services procured by Air Force medical facilities from civilian or other government sources for eligible patients under treatment in Air Force medical facilities; and

(c) Civilian veterinary services for Air Force-owned animals and prospective military dogs.

NOTE: This part is affected by the Privacy Act of 1974.

§ 880.2 Explanation of terms.

As used here, the following terms apply:

(a) *Civilian Physician.* A doctor of medicine or doctor of osteopathy who is legally qualified and licensed, without limitation, to administer drugs and to perform surgical procedures in the geographic area where such service is provided.

(b) *Civilian Dentist.* A doctor of dentistry who is legally qualified and licensed, without limitation, in the geographic area concerned to administer drugs and to perform all procedures related to the teeth, jaws, and structures continuous to them.

(c) *Civilian Veterinarian.* Any person legally qualified and licensed, without limitation, to practice veterinary medicine where the veterinary service is performed.

(d) *Civilian Medical Care.* Physical examination, professional advice, and treatment provided by a civilian physician or civilian medical agency to sick or injured military personnel. The term includes nursing, hospital care, medicine, whole blood or blood derivatives, laboratory and X-ray services, physical therapy, and so forth.

(e) *Civilian Dental Care.* Dental examination, advice, diagnosis, consultation, and treatment provided to military personnel by a civilian dentist.

(f) *Cooperative Care.* Health care services and supplies provided potential CHAMPUS beneficiaries from direct care system resources. This program also includes those medical services and supplies for which CHAMPUS will share in the cost for beneficiaries under specified circumstances, even though the patient remains under the primary control of a uniformed services medical facility.

(g) *Contract Health Care Services.* Those health care services obtained by the uniformed services facility on a recurring or predictable basis for patients, to provide necessary care and treatment of the overall patient beneficiary population.

(h) *Emergency Care.* Immediate medical or dental care required to save life, limb, sight, loss of body tissue, or to prevent undue suffering.

(i) *Non-Emergency Care.* Medical or dental care, such as eye refractions, dental prophylaxis, and elective surgical procedures (for example, sexual sterilization) which, in the opinion of the provider, can be deferred or performed at another time or place without jeopardizing life, limb, or the overall health and well-being of the patient.

(1) It is not realistic to list all possible examples of this type of care, because it may involve varying degrees of urgency or necessity. In short, one type of health care may be more essential to the patient's health care and well-being than another.

(2) For this reason, requested services under this term should not be equated with each other. For example, an indicated dental prothesis should not be compared to corrective orthopedic surgery.

(j) *Civilian Veterinary Service.* Physical examinations, treatment, surgery, or hospitalization by a civilian veterinarian. This term includes X-ray, professional services, surgical appliances, materials, and medicine, where indicated.

(k) *Uniformed Services.* The Air Force, Army, Navy, Marine Corps, Coast Guard (including uniformed service Academy Cadets and Midshipmen), the Commissioned Corps of the Public Health Service, and the Commissioned Corps of the National Oceanic and Atmospheric Administration.

(l) *Member of a Uniformed Service.* A person who is serving in a uniformed service on active duty or on inactive duty for training.

(m) *Retired Member of a Uniformed Service.* A person who is entitled to retired or retainer pay, or equivalent pay, as a result of service in a uniformed service.

(n) *NATO Forces.* Military personnel belonging to the land, sea, or air armed service of a nation which is a party to the NATO Status of Forces Agreement. These nations are Belgium, Canada, Denmark, Federal Republic of Germany, France, Greece, Italy, Luxembourg, Netherlands, Norway, Portugal, Turkey, and the United Kingdom.

(o) *United States.* The 50 states and the District of Columbia.

(p) *Office of Civilian Health and Medical Program of the Uniformed Services EUROPE (OCHAMPUSEUR).* The Executive Director, OCHAMPUSEUR, Army Command, Europe, APO New York 09403.

(q) *Supplemental Care.* Those health care services obtained by the uniformed services facility for, or on behalf of, a patient, necessary for the care and treatment of that patient. Supplemental care services pertain only to non-CHAMPUS beneficiaries.

§ 880.4 Policies, responsibilities, and general instructions.

(a) *When Treatment Is Authorized.* Civilian medical and dental care for the active duty Air Force military personnel and NATO Air Force military personnel at U.S. Government expense is authorized only when the required treatment cannot be obtained from uniformed services medical facilities (that is, from the Air Force, Army, Navy, or U.S. Public Health Service facilities) or from other government medical facilities, such as Veterans Administration hospitals.

(b) *NATO Military Personnel in the United States.* When members of the forces designated in paragraph (k) of § 880.2 are stationed in or passing through the United States in connection with their official duties, they are

given civilian medical and dental care under the same conditions as authorized for active duty United States military personnel. All procedures prescribed in this part for active duty U.S. Air Force personnel apply to eligible NATO Air Force military personnel.

§ 880.6 Care authorized from civilian sources.

Medical and dental care from civilian sources for active duty Air Force and NATO Air Force members is limited to care that would ordinarily be given by Air Force medical or dental facilities (AFRs 168-6 and 168-9). (When a request for health care services is questionable from a professional standpoint, refer to AFR 160-12 (Professional Policies and Procedures), for guidance. If the case is not an emergency, refer the request to a competent medical authority for an advance determination.)

(a) Health care at Air Force expense is authorized:

(1) When a patient (as defined in § 880.8) requires essential medical or dental care and;

(i) There is no Air Force or other government medical or dental facility available, and

(ii) The available facility cannot provide the required care.

(2) When a uniformed service member is receiving either inpatient or outpatient care in an Air Force MTF and requires certain medical or dental care that the Air Force facility or its staff cannot provide.

(b) Civilian ambulance service at Air Force expense is authorized to move eligible active duty U.S. and NATO Air Force members to a medical facility. Funds under the central managed allotment for medical care in non-Air Force medical facilities will be used to pay for civilian ambulance service.

NOTE: The services of chiropractors are not authorized.

§ 880.8 For whom authorized.

When uniformed services or other government medical care is not available, civilian medical and dental care is authorized at Air Force expense for:

(a) Active duty Air Force personnel, including Air Force Academy Cadets, and NATO Air Force personnel listed in paragraph (n) of § 880.2.

(b) Members of the Air Force Reserve who are injured (or who contract a disease) in line of duty while on active duty, or who are injured in line of duty while performing inactive duty training (or while voluntarily participating in an aerial flight in a government-owned aircraft under proper authority and as an incident of training). Rehospitalization may be authorized under this section for the same condition which hospitalization at Air Force expense was initially required until no improvement will derive from further treatment.

(c) Members of the Air National Guard (ANG) who are injured or become ill in the line of duty when on active duty performing an Air Force directed mission (such as ferrying aircraft, a runway alert, or such other duties as the Secretary of the Air Force may direct on competent Air Force orders).

(1) ANG members who are on active duty for training, or an inactive duty training, are also eligible for medical and dental care from civilian sources according to ANG directives, at ANG expense. Such medical care may be authorized by the ANG organization or the Air Force base commander.

(2) ANG members may also be admitted and treated at an Air Force medical facility under Part 815 of this chapter.

(d) Members of Air Force Reserve Officers Training Corps (AFROTC) who are injured (or become ill) in line of duty while en route to or from, or while participating in, a summer encampment. An AFROTC member is not entitled to health care services from civilian sources at Air Force expense beyond the training period specified in his or her training orders.

(e) Applicants for enlistment, commission, and for the officers training school program may be given physical examinations by a qualified civilian physician where there is no adequate military examining facility. Payment is made from funds available to the local USAF Recruiting Service.

(f) Health professionals applying for a commission in the USAF Medical Service may be given physical exami-

nations by qualified civilian physicians if no adequate military examining facility is available. Payment is made from funds available to the local USAF recruiting service.

(g) Active duty female personnel who reside at least 30 miles from an uniformed services hospital may choose whether they wish to deliver in a closer civilian hospital (or to travel more than 30 miles to the uniformed services hospital) for maternity care and the delivery.

(1) If the mother decides to deliver in a closer civilian hospital, any cost involved with the maternity episode (including routine newborn care) is payable from a centrally managed allotment. Hospitalization for the newborn after the discharge of the mother is cost-shared CHAMPUS. The approval authority is the same as for nonemergency care.

§ 880.10 Who authorizes.

These types of civilian case are authorized at Air Force expense; certain types must be authorized in advance as follow:

(a) *Emergency Inpatient Care.* Advance approval is not required.

(b) *Emergency Outpatient Care.* Advance approval is not required.

(c) *Non-Emergency Care and Maternity Care.* The director of base medical services, when a MTF is available; the Air Force base commander (or an authorized representative) under whose jurisdication the member is assigned; or the commander of the member's unit of assignment if the unit is not at an Air Force base. If in doubt, refer the case to the major command surgeon's office or to HQ USAF/SGHC, Bolling AFB, DC 20332.

(d) *Supplemental Care-Cooperative Care.* The director of base medical services.

§ 880.12 When not authorized.

Civilian care is not authorized at Air Force expense for:

(a) Non-emergency and maternity care unless explicitly approved by competent authority as indicated in paragraph (c) of § 880.10.

(b) Treatment when adequate medical or dental service is available from an Air Force or other government medical or dental facility in the vicinity.

(c) A discharged member of the Air Force who receives care for an illness or injury incurred while on active duty. However, he or she may apply for a correction of records to change his discharge date as provided by Part 865 of this chapter.

(d) Persons other than those stated in § 880.8. (For a family member or a retired AF member, see policy in AFR 168-9.)

(e) Air Force military personnel absent without leave (AWOL), or in desertion status. However, charges for medical care provided after return of the individual to military control may be paid from Air Force funds. Return to military control under this part may be actual or constructive (see Part 889 of this chapter).

NOTICE: Constructive return is effected when military authorities are notified of the patient's presence in a civilian medical facility and action is taken regarding the disposition of the member (such as investigation of his or her condition or making a medical decision about the disposition and treatment of the case).

§ 880.14 Emergencies.

(a) Emergency medical or dental care at Air Force expense may be obtained from a civilian source without advance authorization by or in behalf of Air Force members authorized in § 880.8. Emergency dental care is limited to treatment for the relief of pain and prevent loss of oral tissue, treatment of acute septic conditions, essential correction of dental injuries, or damage to dental prostheses that requires immediate attention.

(b) For nonemergency medical, dental care, and maternity care, the Air Force member must ask, in writing, for authority to engage civilian medical or dental care before contracting for such care. If an MTF is available under the jurisdiction to which the member is assigned, send the request to the director of the base medical service; otherwise, send it to the member's commander. (A form will not be designed for this purpose.) The request will include:

(1) Name, grade, social security number, and organization.

(2) Type and extent of medical or dental care required.

(3) Duty status, leave or pass. (If not on duty, give the exact period of the leave or pass; if on duty, give the probable length of time at the present location.)

(4) What action has been taken to obtain the required care from an Air Force or other government medical or dental facility. If no action has been taken, state why.

§ 880.16 Special examinations and appliances.

(a) *Eye Refractions.* Air Force personnel on active duty and NATO Air Force personnel, may obtain a refractive examination necessary under AFR 167-3 (Medical Services Ophthalmic Services) at Air Force expense for the fitting of spectacles from a civilian physician or licensed optometrist, if the refraction cannot be obtained from an Air Force facility or other goverment agency. Air Force Reserve personnel may be authorized refractions under AFR 160-37 (Department of Defense Medical Examination Review Board).

(1) *Approval Authority.* Approval by the authority in § 880.10. Exception: Advance approval will not be required for refractions for active duty Air Force personnel in a foreign country when they are on duty away from a uniformed service unit.

(2) *Withholding Authority.* Authority will not be granted to obtain the services of a civilian physician or optometrist for refractions for:

(i) Personnel under orders to report in the near future to an installation where capable government medical facilities are available.

(ii) Personnel temporarily absent for short periods from their proper installations.

(3) *Prescribing Lenses.* Civilian physicians or optometrists performing refractions will be requested to prescribe lenses to the closest one-fourth diopter.

(4) *Procuring Spectacles.* The member will send his or her prescription for spectacles to the nearest Air Force MTF for procurement as outlined in AFR 167-3. The member may not order the spectacles from a civilian source at government expense except as permitted in AFR 167-3. The Air Force facility will mail the spectacles to the member so that a civilian physician or optometrist can adjust the frames.

(5) *Examination Charges.* Eye refractions given under this section are charged to the centrally managed allotment for medical care in non-Air Force medical facilities. The charge for refraction should be at local rates and must include the adjustment of frames and fitting of spectacles when delivered.

(b) *Surgical and Orthopedic Appliances.* Items authorized for base procurement may be provided by the civilian medical facility in connection with authorized treatment and services.

§ 880.18 Information required on statements and bills from civilian hospitals, physicians, dentists, and nurses.

(a) *Hospitals and Physicians.* Complete SF 1034 (Public Voucher for Purchases and Services Other Than Personal). Also, when applicable, the following is required:

(1) The exact nature of first aid or emergency treatment.

(2) If there are any official long distance telephone or telegram charges, attach a certificate or copy of the telegram, as required by AFM 177-102, part 1, chapter 8. Show the date and amount paid for each service.

(3) If a hospital or clinic has paid a physician, nurse, or anesthetist who is not a member of its staff, include those charges in the hospital bill, but attach the receipted bill which shows that the hospital has paid them. If the hospital employs physicians, nurses, or anesthetists on a salary basis, and if payment for their services is due the hospital, the bill should state that the physician, nurse, or anesthetist is a salaried member of the hospital staff.

(4) Itemize separately any required items incident to treatment (such as crutches, special therapy, etc.).

(5) Do not pay charges for personal items for patients (such as cigarettes, rental of radio or television, meals for guests, personal phone calls, etc.) because they are not payable from Air Force funds.

(b) *Special Nursing Service.* State the place where service was rendered, the hour it began and ended, the number of hours served each day or night, and the number of days or nights served.

NOTE: If a nurse went on duty at 2300 on one day, and went off duty at 0700 the next day, count this as only 1 night, even though 2 days are involved.

(c) *Dental Services.* (1) Show each service rendered (such as extraction, restoration, etc), and the charge for each. Identify each tooth involved. Show the number of tooth surfaces involved and filling material used.

(2) Nonemergency dental care requires advance approval of the authority cited in § 888.10.

(d) *Ambulance Service.* Give the mileage involved, the flat rate or rate per mile, and any supplies or services provided, as the case may be.

§ 880.20 Veterinary care authorized.

Civilian veterinary care for Air Force owned animals and prospective military dogs is authorized at Air Force expense when:

(a) A military veterinarian is not available.

(b) Necessary equipment or facilities are not available for an Air Force veterinarian to provide the required professional services or to perform a complete physical examination.

§ 880.22 Who authorizes veterinary care.

The base or unit commander (or designated representative) where government-owned animals, military dogs, or prospective military dogs are attached, assigned, or offered may approve civilian care for these animals.

§ 880.24 Bills for veterinary services.

Each service rendered (such as X-rays, laboratory, service, hospitalization, medical treatment, splints, pins, etc.) should be listed separately and the charge shown for each item.

Subpart B—Control of Ambulances at Lackland AFB, Tex.

Source: 43 FR 6766, Feb. 16, 1978, unless otherwise noted.

§ 880.35 Purpose.

This part establishes policies and procedures for control of ambulances at Wilford Hall USAF Medical Center.

§ 880.36 Use of ambulances.

(a) Ambulances will be used only for:

(1) Transportation of patients.

(2) Transportation of personnel, supplies, and equipment in connection with patient care.

(3) Stand-by in hazardous operational areas when USAF medical personnel are in attendance.

(4) Stand-by parades, ceremonies, or other functions where USAF medical personnel are in attendance.

(5) Participation in disaster exercises.

(6) Other purposes specifically authorized by the Director, Hospital Services.

(b) An ambulance should be used only when another government vehicle is not adequate or desirable.

§ 880.37 Dispatch of ambulances.

Ambulances will be dispatched in the following priority:

(a) Priority 1: Emergencies on Lackland AFB and Medina Base.

(b) Priority 2: Emergencies involving active duty military personnel, retired personnel, and their dependents off-base.

(c) Priority 3: Emergencies involving others off-base.

(d) Priority 4: Participation in disaster exercises.

(e) Priority 5: Transportation of non-ambulatory patients to and from WHMC and other medical facilities.

(f) Priority 6: Other requests.

§ 880.38 Ambulance driver requirements.

(a) Individuals being considered for selection as an ambulance driver will be interviewed by the NCOIC or OIC of the duty section where ambulances are assigned. Driver selection will be based on maturity, physical fitness, attitude, previous driving record, initiative, experience, and potential as a medical technician.

(b) Each section OIC/NCOIC is responsible for instructing their ambulance drivers in the proper operation of assigned ambulances, operator's

maintenance responsibility, and preparation of forms and reports in connection with his duties. Each driver will be trained to operate all equipment installed or normally carried in the ambulance. In-service training should periodically cover driver responsibilities and vehicle safety.

(c) Each ambulance driver must be familiar with the provisions of this part and of those published in Air Force Manual 77-2, Manual for Wheeled Vehicle Driver.

PART 881—DETERMINATION OF ACTIVE MILITARY SERVICE AND DISCHARGE FOR CIVILIAN OR CONTRACTUAL PERSONNEL

Sec.

881.0 Purpose.
881.1 Explanation of terms.
881.2 General guidance.
881.3 Application procedures.
881.4 Application screening.
881.5 Individual Service Review Board.
881.6 Application processing.
881.7 Disposition of documents.

AUTHORITY: Sec. 401, Pub. L. 95-202.

SOURCE: 44 FR 64075, Nov. 6, 1979, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation 30-45, April 19, 1979.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 881.0 Purpose.

This part establishes policy and procedures for processing individual applications for discharge of persons claiming membership in a group which has been determined by the Secretary of the Air Force to have performed active military service with the U.S. Air Force or a predecessor organization. It implements Pub. L. 95-202, section 401; and DOD Directive 1000.20, January 24, 1979.

NOTE: This regulation is subject to the Privacy Act of 1974. Each form that is subject to AFR 12-35, and required by this regulation, has a Privacy Act Statement in the body of the document.

§ 881.1 Explanation of terms.

(a) *Active Military Service.* The same as in Section 101, Title 38, United States Code.

(b) *Applicant.* A person who applies for a discharge based on membership in a group determined by the Secretary of the Air Force to have performed active military service with the U.S. Air Force or a predecessor organization. An application may be made on behalf of such a person, if he or she is deceased or mentally incompetent, by the spouse, next of kin, or legal representative.

(c) *Certified Group.* A group which has been determined by the Secretary of the Air Force to have rendered service which constituted active military service.

(d) *Characterization of Service.* A determination reflecting a member's behavior and performance of duty during a specific period of service. Under this part, service may be characterized as:

(1) Honorable, or

(2) Under Honorable Conditions (General Discharge).

(e) *Discharge.* Complete severance from the active military service on which the application for discharge is based. Also, the assignment of a reason for such discharge and characterization of service.

(f) *Group.* An organization which was similarly situated to the Women's Airforce Service Pilots, and whose members rendered service to the Armed Forces of the United States in a capacity considered civilian employment or contractual service at the time such service was rendered.

§ 881.2 General guidance.

(a) *Group Determinations.* Acting as the Executive Agent for the Secretary of Defense, the Secretary of the Air Force will determine whether the service rendered by a group shall be considered active military service for the purpose of all laws administered by the Veterans Administration.

(b) *Individual Applications for Discharge:* (1) Following the determination by the Secretary of the Air Force that the service of a group is considered active military service, individuals

claiming to have been members of that group may apply for discharge to the appropriate military department. Applications made to the Department of the Air Force will be processed according to this part.

(2) If an applicant is determined to have been a member of a certified group, during the dates of its qualification, and the characterization of service is honorable or under honorable conditions, the Secretary of the Air Force or designee will issue a discharge certificate and a DD Form 214, Report of Separation from Active Duty, to the applicant.

§ 881.3 Application procedures.

(a) *Who May Apply.* Any person who claims to be a member of a certified group may apply for discharge. An application may be made on behalf of such a person, if he or she is deceased or mentally incompetent, by the spouse, next of kin, or legal representative. Proof of death or mental incompetency as appropriate, must accompany such an application.

(b) *Where to Apply.* An application for discharge from the Air Force may be sent to HQ AFMPC/MPCDOA1, Randolph AFB, TX 78148.

(c) *How to Apply:*

(1) An application may be made using DD Form 2168, Application for Discharge of Member or Survivor of Member of Group Certified to Have Performed Active Duty with the Armed Forces of the United States (Encl 1 to DOD Directive 1000.20, January 24, 1979), or in narrative form.

(2) Forms are available upon request by writing to HQ AFMPC/MPCDOA1, Randolph AFB, TX 78148, or to the National Personnel Records Center (NPRC), 9700 Page Boulevard, St. Louis, MO 63132.

(3) Applications should be as complete as possible. The burden of proof is on the applicant. The applicant should provide all available evidence to support a claim for membership in the group and to determine the character of service performed. The Individual Service Review Board will have available a copy of the report of the Advisory Panel to the DOD Civilian/Military Service Review Board (see DOD Directive 1000.20, January 24, 1979), which may contain information pertinent to individual service.

(4) Documentation may include, but is not limited to: separation or discharge certificates, mission orders, identification cards, contracts or personnel action forms, employment records, education certificates, diplomas, pay vouchers, certificates of awards, casualty information, and any other supporting evidence of membership, or character of service performed.

(5) The Air Force will not provide representation by counsel for the applicant, nor will it defray costs of such representation under any circumstances.

(d) *When to Apply.* There is no time limit for submitting an application for discharge.

§ 881.4 Application screening.

HQ AFMPC/MPCDOA1 will acknowledge receipt of each application. The application will then be reviewed to see if it is proper and complete:

(a) An application that should be considered by another military department will be referred to that department, and the applicant will be sent a written notice or a copy of the referral letter.

(b) If the Secretary of the Air Force has not made a determination concerning the particular group in which an applicant claims membership, the application will be returned without prejudice. An application may be resubmitted after Secretarial determination that the group is certified.

(c) Applications made by a group (or individuals on behalf of a group) are not processed under this part. If such applications are received, they are to be referred to the Secretary of the Air Force (SAF/MIPC), The Pentagon, Washington, DC 20330, for further review.

(d) Incomplete applications will be returned to the applicant without prejudicing later consideration.

(e) All proper, complete applications will be referred to the Individual Service Review Board for further consideration.

§ 881.5 Individual Service Review Board.

(a) *Purpose.* The Individual Service Review Board is established by the Secretary of the Air Force at the Air Force Manpower and Personnel Center (AFMPC) to:

(1) Review applications for discharge under this part;

(2) Make findings of fact based on evidence submitted; and

(3) Based on those findings, act further on the application as outlined in § 881.6.

(b) *Composition.* The Board consists of military members in grade O–5 (Lt Col) or higher, and civilian members, grade GS–12 or higher, appointed by the Assistant Deputy Chief of Staff, Manpower and Personnel for Military Personnel (AFMPC/MPC). Three members constitute a quorum. The senior member acts as Board chairperson. A nonvoting recorder keeps a record of the Board's actions concerning an application.

(c) *Administrative Support.* HQ AFMPC/MPCAKE, Randolph AFB TX 78148 provides administrative support to the Board.

§ 881.6 Application processing.

(a) The Individual Service Review Board meets in closed session and considers the application, all evidence submitted, and other relevant information available. Applicants or their representatives do not have the right to appear before the Board.

(b) The Board makes findings of fact based on the evidence and information available, and determines whether the applicant was a member of a certified group during the dates of its qualification and, accordingly, whether the application for discharge should be approved or disapproved.

(c) When the Board determines that the application for discharge should be approved, the Board also determines the period and character of the applicant's service.

(d) *Approved Applications:* (1) If the Board approves an application for discharge and determines that the service characterization should be honorable, HQ AFMPC/MPCDOA1 issues the applicant a DD Form 256, AF, Honorable Discharge Certificate, and a DD Form 214, Report of Separation from Active Duty, under Part 888h of this chapter. A military grade will be entered on the DD Form 214 only upon an individual request from the Administrator of Veterans' Affairs.

(2) If the Board approves an application for discharge but determines that the service characterization should be "Under Honorable Conditions" (General Discharge Certificate), the case is forwarded to the Secretary of the Air Force (SAF/MIPC) for a final decision. After the final decision on the case, HQ AFMPC/MPCDOA1 issues the appropriate discharge certificate and a DD Form 214 to the applicant.

(e) *Application Denial Actions:* (1) If the Board determines that an application for discharge should be denied because there is insufficient evidence to show that the applicant was a member of a qualifying group, or if the Board determines that the applicant's service cannot be characterized as under honorable conditions, HQ AFMPC/MPCDOA1 notifies the applicant of the determination.

(2) The applicant has 60 days from the date of this notice to submit additional evidence or information to HQ AFMPC/MPCDOA1, Randolph AFB TX 78148 for the Board's consideration.

(3) After 60 days the Board reviews the case again if additional evidence or information is submitted. If the Board determines that the application now merits approval, further action on the case follows as outlined in subparagraph (d) of this section.

(4) If the applicant fails to submit additional evidence or information or if, after review, the Board determines that the application should be denied, the case is sent to the Secretary of the Air Force (SAF/MIPC) for final decision on the question of discharge and character of service.

(i) HQ AFMPC/MPCDOA notifies the applicant of the final decision and, if appropriate, issues the discharge documents.

(ii) An application which is denied is returned to the applicant, without prejudicing any later consideration.

(f) *Discharge Upgrade.* If a General Discharge Certificate is issued, the recipient may apply to the Air Force Discharge Review Board for discharge

upgrade under Part 865, Subpart B, or to the Air Force Board for Correction of Military Records under Part 865, Subpart A of this chapter. HQ AFMPC/MPCDOA will provide copies of these parts and application forms to individuals who received a General Discharge.

§ 881.7 Disposition of documents.

(a) A copy of the application, supporting evidence, and DD Form 214 are filed permanently at the National Personnel Records Center, St. Louis MO 63132 for approved cases. Copies of DD Form 214 are also sent to the applicant, to the Veterans Administration, and to HQ AFMPC/MPCAKE, Randolph AFB, TX 78148.

(b) A copy of each application is maintained at HQ AFMPC/MPCAKE for up to 3 years.

PART 882 [RESERVED]

PART 883—MILITARY JUSTICE

Sec.
883.1 Purpose.
883.2 Suspension of counsel.
883.3 Application of relief under Article 69.
883.4 Petitions for new trial.

AUTHORITY: 10 U.S.C. 836, 869, 940, 8012; E.O. 11476, 3 CFR, 1966-1967 Comp., p. 787; paragraphs 43 and 110A, MCM US 1969 (Rev.)

SOURCE: 38 FR 26802, Sept. 26, 1973, unless otherwise noted.

§ 883.1 Purpose.

(a) This part contains Department of the Air Force implementation of a portion of the Manual for Courts-Martial, 1969 (Revised Edition).

NOTE: The complete text of the "Manual for Courts-Martial, United States, 1969 (Revised Edition)" appears at 34 FR 10503, June 28, 1969. The Manual was also published by the Department of Defense and may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(b) Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the Air Force directives referenced herein.

§ 883.2 Suspension of counsel.

(a) *General.* This section implements the provisions of paragraph 43, Manual for Courts-Martial (MCM), 1969 (Rev.). When a person, military or civilian, has, pursuant to paragraph 43, MCM, 1969 (Rev.), and this section, has been suspended from acting as counsel before Air Force courts-martial and the Air Force Court of Military Review, he shall not, during the period of the suspension, be eligible to so act. Such suspension is separate and distinct from any matter involving contempt, discussed in paragraphs 10 and 118, MCM, 1969 (Rev.), and from withdrawal of certification made pursuant to Articles 26 and 27, Uniform Code of Military Justice (UCMJ) (10 U.S.C. 826, 827).

(b) *Grounds for suspension.* Suspension action may be initiated when a person has demonstrated by his personal or professional conduct that he is so lacking in competency, integrity, or ethical or moral character as to be unacceptable as counsel before an Air Force court-martial or the Air Force Court of Military Review. Specific grounds for suspension included, but are not limited to:

(1) Demonstrated incompetence while acting as counsel during pretrial, trial, or post-trial stages of a court-martial;

(2) Preventing or obstructing justice, including the deliberate use of frivolous or unwarranted dilatory tactics;

(3) Using, at trial, any papers or evidence which are known to be fabrications, or otherwise practicing fraud upon an Air Force court-martial or the Air Force Court of Military Review;

(4) Tampering with a witness or court member;

(5) Abusive conduct toward the court-martial, the Court of Military Review, the military judge, or opposing counsel;

(6) Flagrant or repeated violations of any specific rules of conduct prescribed for counsel (see paragraphs 42, 44, 46, and 48, MCM 1969 (Rev.));

(7) Conviction of an offense involving moral turpitude or conviction of a violation of Article 48, UCMJ; or

(8) Mental incompetency as declared by appropriate authorities.

(c) *Automatic suspension.* When a person has been disbarred by a Federal or State court, or suspended from acting as counsel before courts-martial and Courts of Military Review by another service, The Judge Advocate General, United States Air Force, may, upon receipt of evidence of such disbarment or suspension, take suspension action by notifying the disbarred or suspended person, in writing, that he is ineligible to act before courts-martial or administrative boards in the Air Force, or before the Air Force Court of Military Review during the period of the disbarment or suspension. Under this procedure the disbarred or suspended person is not entitled to a hearing as hereinafter prescribed.

(d) *Standards of professional ethics.* Action to suspend should not be initiated because of personal prejudice or hostility toward counsel, nor should such action be initiated because counsel has presented an aggressive, zealous, or novel defense, or when his conduct stems from inexperience in the performance of legal duties. The Code of Professional Responsibility of the American Bar Association is considered to be generally applicable as the criterion of professional conduct for persons acting as counsel before Air Force courts-martial and the Air Force Court of Military Review.

(e) *Action to suspend*—(1) *General.* Action to suspend a person from acting as counsel before Air Force courts-martial and the Air Force Court of Military Review will be initiated only when other remedial measures, including punitive action, have failed to induce proper behavior or are inappropriate. Full consideration will be given at each stage of the proceedings toward the effectiveness and appropriateness of other measures such as warnings, admonition instructions, proceedings in contempt or other punitive action, before suspension action is processed.

(2) *Report of grounds of suspension.* When information as to the occurrence or existence of any ground for suspension comes to the attention of a member of an Air Force court-martial, a military judge, staff judge advocate, appointed counsel, a commander, or member of the Air Force Court of Military Review, such information shall be reported, together with supporting information, to the officer exercising general court-martial jurisdiction over the command of such reporting officer. Upon receipt of such report, the officer exercising general court-martial jurisdiction will refer it to his staff judge advocate for review and recommended action. He will then forward the report with his recommendation through the major commander, if any, to The Judge Advocate General. The major commander will likewise refer the matter to his staff judge advocate for review and recommendations before forwarding it with his recommendations. If the alleged disqualifying conduct occurs during trial of a particular case and involves counsel for the accused, action may be deferred pending completion of the trial.

(3) *Hearing.* If The Judge Advocate General is of the opinion that there is probable cause to believe that a ground for suspension exists, and that other remedial measures are not appropriate or will not be effective, he shall appoint a Board of Officers consisting of not less than three Air Force officers who are designated as military judge or certified counsel (competent to act before general courts-martial pursuant to Article 26 or 27, UCMJ), and who are, if practical, senior in grade to the person being considered for suspension if that person is a member of the military. He shall also appoint a judge advocate as a nonvoting recorder. The Board shall cause notice to be given to the lawyer involved, informing him of the misconduct or other disqualifying matters alleged and affording him the opportunity to appear before it for a hearing. The lawyer involved may be represented by counsel. If the lawyer involved is a member of the Air Force, he may have military counsel appointed for him or he may obtain civilian counsel at his own expense. If the lawyer involved is not a member of the Air Force, military counsel will not be provided him; however, he may obtain other civilian counsel at his own expense. The lawyer involved shall be permitted at least 5 days subsequent to notice to prepare for the hearing.

Failure to appear on a set date subsequent to notice will constitute a waiver of appearance. Upon ascertaining the facts relevant to the alleged disqualifying measures, after notice and hearing, the Board will report its findings and recommendations based thereon to The Judge Advocate General. If the Board recommends suspension, it will also recommend whether the suspension will be indefinite or temporary. The procedures of Part 866 will be used as a guide in the conduct of hearings for suspension of counsel.

(4) *Action by The Judge Advocate General.* Upon receipt of the report of a Board, The Judge Advocate General shall determine whether the person involved shall be suspended as counsel and whether such suspension shall be for a stated term or indefinite, and he shall issue an appropriate order implementing such determination, a copy of which will be furnished the person involved. The Judge Advocate General may, upon petition of the person who has been suspended, and upon good cause shown, or upon his own motion, modify or revoke any prior order of suspension.

(5) *Effect upon other action.* Notwithstanding this part, The Judge Advocate General may in his discretion withdraw any certification of qualification to act as military judge or as counsel before general courts-martial made pursuant to Article 26 or 27, UCMJ.

§ 883.3 Application for relief under Article 69.

(a) Article 69 of the UCMJ (10 U.S.C. 869) permits The Judge Advocate General to vacate or to modify, in whole or in part, the findings or sentence or both in a court-martial case which has been finally reviewed, but has not been reviewed by the Court of Military Review (see MCM, 1969 (Rev.), paragraph 110A). An application for action under Article 69 will be made in writing, will be under oath or affirmation, and will be signed by the accused or his legal representative. The application will contain:

(1) The name, social security account number, and present mailing address of the accused.

(2) The date and place of trial and kind of court.

(3) The sentence of the court as approved or affirmed and any subsequent reduction by clemency or otherwise.

(4) A statement of the specific grounds on which relief is requested and the specific relief requested.

(5) Any documentary or other evidence which the applicant believes pertinent to the facts asserted under the specific grounds alleged, including copies of court-martial orders, if available.

(b) Applications will be submitted to the general court-martial authority when the case was tried by summary court-martial or by a special court-martial where the approved sentence did not include a bad conduct discharge and the applicant is still in the command in which the case was tried. All other applications will be forwarded directly to HQ USAF/JAJ. When an application is received by an officer exercising general court-martial jurisdiction, he will forward the application, together with the original record of trial and copies of all relevant orders and other documents, to HQ USAF/JAJ. In forwarding an application, neither the officer exercising general court-martial jurisdiction nor his staff judge advocate is required to make any recommendation as to the disposition of the case; however, either is permitted to include such comments or recommendations as may be appropriate in the particular case.

[38 FR 26802, Sept. 26, 1973; 38 FR 27523, Oct. 4, 1973]

§ 883.4 Petitions for new trial.

Petitions for new trial will be prepared and processed in accordance with MCM, 1969 (Rev.), paragraph 109. A petition for new trial may be submitted on the grounds of newly discovered evidence or fraud on the court in any kind of court-martial (general, special, or summary) within 2 years after approval of the sentence by the convening authority.

PART 884—DELIVERY OF AIR FORCE PERSONNEL TO U.S. CIVILIAN AUTHORITIES FOR TRIAL

Sec.

884.1 Purpose.
884.2 Applicability.
884.3 Authority.
884.4 Policy.
884.5 Procedure for delivery.
884.6 Procedure upon refusal of request.
884.7 Release on bail or recognizance.
884.8 Cases involving special circumstances.

AUTHORITY: Secs. 8012, 814, 70A Stat. 488, 41; 10 U.S.C. 8012, 814.

§ 884.1 Purpose.

This part sets forth the authority, policy, and procedures for delivery of Air Force personnel to United States civil authorities for trial.

[29 FR 13742, Oct. 6, 1964]

§ 884.2 Applicability.

(a) This part applies to all military personnel in the Air Force.

(b) It does not apply to delivery of personnel to foreign authorities. It is not applicable where a State, having concurrent jurisdiction for the purpose of executing criminal process, proceeds by service of process to take custody of an Air Force member without making formal request for his delivery.

[29 FR 13742, Oct. 6, 1964]

§ 884.3 Authority.

In accordance with Article 14, Uniform Code of Military Justice, a commander exercising general court-martial jurisdiction, or a wing or base commander when authorized by the officer exercising general court-martial jurisdiction, may authorize delivery of a member of the Air Force under his command, when such member is accused of a crime or offense made punishable by the laws of the jurisdiction making the request, to the civil authorities of the United States or of a State of the United States under the conditions prescribed in this part.

[29 FR 13742, Oct. 6, 1964]

§ 884.4 Policy.

(a) *Requests by Federal authorities for personnel stationed within the United States, and its possessions.* Air Force policy is to deliver members of the Air Force to such authorities upon their request when the request is accompanied by a warrant for the member's arrest issued pursuant to the Federal Rules of Criminal Procedure, 18 U.S.C. Appendix, or when the requesting officer represents that such a warrant has been issued.

(b) *Requests by authorities of the State in which the member requested is located.* (1) Offenses punishable by imprisonment for more than 1 year. Air Force policy is to turn over to the civil authorities of the State, upon their request, members of the Air Force charged with an offense against civil authority punishable by imprisonment for more than 1 year, when such request is accompanied by a copy of the indictment, information, or other document which may be used in the particular jurisdiction to prefer formal charges of the commission of a criminal offense.

(2) Offenses punishable by imprisonment for 1 year or less. Upon request of civil authorities for the delivery of a member charged with an offense against civil authority punishable by imprisonment for 1 year or less, the commander authorized to deliver will exercise his discretion after consideration of the nature of the offense charged, other facts and circumstances, and the existing military situation. The request for delivery will be accompanied by a copy of the information or other document which may be used in the particular jurisdiction to prefer formal charges.

(c) *Request for delivery by authorities of any other State.* With respect to extradition process, military personnel have the same status as persons not in the Armed Forces. Accordingly, if the delivery of an Air Force member is requested by a State other than the State in which he is located, the authorities of the requesting State will be required, in the absence of a waiver of extradition process by the member concerned, to complete extradition process according to the prescribed

procedures to obtain custody of a person from the State in which the individual is located and to make arrangements to take the individual into custody there. It is contrary to Air Force policy to transfer an Air Force member from a station within one State to a station within another State for the purpose of making him amenable to prosecution by civil authorities.

(d) *Requests for custody of members stationed outside the United States.* All such requests will be forwarded to Hq USAF/JAJ for appropriate action.

[35 FR 15382, Oct. 2, 1970]

§ 884.5 Procedure for delivery.

(a) *Delivery to State authorities.* Before making delivery to civil authorities of a State, the commander having authority to deliver will obtain from the Governor or other duly authorized officer of such State, a written agreement substantially in the following form:

In consideration of the delivery at ————of (Name, Grade, and Social Security Account Number, U.S. Air Force, to me, (Name and capacity) ———— ————, for trial upon the charge of ———— I hereby agree, pursuant to the authority vested in me as ———— that the commander of ———————— will be informed of the outcome of the trial and that said ———————— will be returned to Air Force authorities at the aforesaid place of his delivery, or to such other place as may be designated by the Department of the Air Force, or issued transportation thereto without expense of the United States or to the person delivered, immediately upon completion of his trial upon the charge aforesaid in the event that he is acquitted upon said trial, or immediately upon satisfying the sentence imposed, or upon other disposition of his case, unless the Air Force authorities shall have indicated that return is not desired. Pending disposition of the charge aforesaid, ———————— will remain in the custody of (Name of Agency, etc., and Location), unless released on bail or his own recognizance, in which event (Air Force Unit, Activity, or Recruiting Office nearest place of trail), will be notified.

Where, under the laws of the State concerned, no authority exists permitting agreement to one or more of the conditions set out in the form, appropriate modification may be authorized by the commander. The Air Force considers this agreement substantially complied with when the Air Force authority who delivered the accused is informed of his prospective release for return to Air Force authorities, and when the individual is furnished transportation back to his station together with necessary funds to cover his incidental expenses en route thereto.

(b) *Delivery to Federal authorities.* Persons desired by the Federal authorities for trial will be called for and taken into custody by a U.S. marshal, deputy marshal, or other officer authorized by law. Request officer taking custody to execute statement in substantially the following form:

A warrant for the arrest of (Name, Grade, and Social Security Account Number) upon the charge of ———— has been issued by ———————— and in execution thereof, I accept custody of (Name) ————————. The commander, ————————, will be advised of the outcome of the trial and ———————— will be returned to the custody of the Air Force at (Air Force Unit, Activity, or Recruiting Office nearest place of trial) immediately upon completion of his trial upon the charge aforesaid in the event that the is acquitted upon said trial, or immediately upon satisfying the sentence imposed, or upon other disposition of his case, unless the Air Force authorities shall have indicated that return is not desired. Pending disposition of the charge aforesaid, ———————— will remain in the custody of (Name of Agency, etc., and Location), unless released on bail or his own recognizance, in which event (Air Force Unit, Activity, or Recruiting Office nearest place of trial) will be notified.

Furnish officer with copies for authorities concerned.

[35 FR 15383, Oct. 2, 1970]

§ 884.6 Procedure upon refusal of request.

In any case where a request is made for delivery to the civil authorities of a State or to the Federal authorities, and such request is refused, the circumstances of the case and the basis for the refusal will be reported without delay to Hq USAF/JAJ through, when applicable, the officer exercising general court-martial jurisdiction.

[35 FR 15383, Oct. 2, 1970]

90-112 O—82——31

§ 884.7 Release on bail or recognizance.

The civil authority to which an Air Force member is delivered under this part may release the member on bail or his own recognizance before final disposition of the charges against him. The commander authorized to deliver or his designee will, before delivery, direct the member in writing to report to a designated Air Force unit, activity, or recruiting office for further instructions should he be so released. If the civil authority to which delivery was authorized is in the immediate vicinity of the member's station, the activity designated ordinarily will be the member's unit. The designated authority will be advised of this action. The authority to whom the member reports will communicate, by the fastest practicable means, the member's name, rank, SSAN, organization, and other pertinent information to and request disposition instructions from the commander who authorized the member delivered to civil authorities. If contact with such commander is not feasible, instructions will be obtained from USAFMPC/AFPMPKA.

[35 FR 15383, Oct. 2, 1970]

§ 884.8 Cases involving special circumstances.

The policies stated in § 884.4 are intended to provide guidance only and are not to be considered as providing a solution for every case. In cases involving special circumstances, the commander authorized to deliver may transmit the request to Hq USAF/JAJ for determination of appropriate action.

[35 FR 15383, Oct. 2, 1970]

PART 885—APPOINTMENT OF OFFICERS IN THE REGULAR AIR FORCE

Sec.

885.1 Purpose.
885.2 Regular Air Force appointment program.
885.3 Terms explained.
885.4 Eligibility for consideration.
885.5 Central appointment boards.
885.6 Information provided to appointment boards.
885.7 Other appointments.
885.8 Medical qualification for Regular appointment.
885.9 Supplemental consideration for Regular appointment.
885.10 Propriety of appointment.
885.11 Delaying an appointment.
885.12 Removing an officer's name from a Regular appointment list.
885.13 Recommending that an officer is not qualified for a Regular appointment.
885.14 Active duty service commitment.
885.15 Probationary period.
885.16 Posthumous appointment.
885.17 Designation to perform certain professional functions and promotion list transfers.
885.17a Application procedures for promotion list transfers.
885.18 Categories of personnel to be considered for Regular Air Force appointments and the statutory authority for the program.
885.19 Basic eligibility for line of the Air Force, Medical Service Corps, and Biomedical Sciences Corps (except dietitian or occupational or physical therapist), Veterinarian Corps, Chaplain, and Judge Advocate.
885.20 Basic eligibility for physicians and dentists.
885.21 Basic eligibility for Nurse and Biomedical Sciences Corps Officers (occupational or physical therapists and dietitians).
885.22 Regular Air Force year group—Health Professions, Chaplain, and Judge Advocate.

AUTHORITY: 10 U.S.C. 8012 and E.O. 9397, November 22, 1973.

SOURCE: 43 FR 35687, Aug. 11, 1978, unless otherwise noted.

NOTE: Air Force Regulation 36-5, June 20, 1978.

§ 885.1 Purpose.

This part explains how appointments are made in the Regular Air Force. It applies to Reserve of the Air Force (ResAF) officers on extended active duty (EAD) and to Academy graduates. This part is affected by the Privacy Act of 1974. The authorities to collect and maintain the data prescribed in this part are 10 U.S.C., chapter 835, and E.O. 9397, November 22, 1973. Each form that is subject to Part 806b of this chapter and required by this part has a Privacy Act Statement, either incorporated into the body of the form or in a separate statement accompanying it.

§ 885.2 Regular Air Force appointment program.

Regular Air Force (RegAF) appointments are made to maintain the RegAF officer structure established by law and in the U.S. Air Force Personnel Plan. Appointments are at the direction of the President, with the advice and consent of the Senate.

§ 885.3 Terms explained.

(a) *Major Commander.* As used here, the term means:

(1) A major commander or separate operating agency (SOA) commander, vice commander, or chief of staff;

(2) Air Staff Deputy Chiefs of Staff and Directors and comparable officers in the Office of the Secretary of the Air Force, Office of the Joint Chiefs of Staff, and Office of the Secretary of Defense;

(3) The Chief of National Guard Bureau (NGB) and the Director or Deputy Director of the Air National Guard (ANG);

(4) The Commander, 1947 Administrative Support Squadron (HQ USAF).

NOTE: An officer's MAJCOM ID determines which commander processes a propriety action.

(b) *Officer Preselection Brief (OPB).* A computer printout produced at base level that contains selected data from the Headquarters U.S. Air Force Master Personnel File (HAF MPF). The OPB is created about 120 days before the board convenes. The Consolidated Base Personnel Office (CBPO) sends the OPB to officers for their review and prompt updating. Although each officer should receive and review an OPB, nonreceipt is not a basis for contesting the results of a selection board. A separate OPB is not prepared for an officer eligible to be considered for Regular appointment in conjunction with a temporary promotion board.

(c) *Officer Selection Brief (OSB).* An extract of data from the HAF MPF. The OSB is created about 30 days before the board convenes; is temporarily put in the Officer, HQ USAF Selection Record Group for board members to review; and is destroyed immediately after the board adjourns. AFMPC/MPCAJB2A keeps a microfiche copy of each OSB.

(d) *Propriety Actions.* Administrative actions taken by the proper authority to either delay an officer's appointment, find an officer not qualified for a Regular appointment, or remove an officer's name from a recommended list.

NOTE: In past editions of this part, delay actions were called withhold actions.

(e) *Promotion Category.* A group or category of officers who compete among themselves for promotion. The established categories are: Line of the Air Force (LAF), Judge Advocate General (JAG), Medical Corps (MC), Dental Corps (DC), Chaplain Corps (CH), Medical Service Corps (MSC), Biomedical Sciences Corps (BSC), Nurse Corps (NC), and Veterinary Corps (VC).

(f) *Health Professions.* A collective term referring to officers in these promotion categories: MC, DC, MSC, BSC, NC, VC.

(g) *"Selectee" and "Recommended."* The terms "selectee" and "nonselectee" are not in the statutes that govern Regular appointments. Instead, the terms "recommended" and "not recommended" are used. However, the terms "selectee," "selected," and "nonselected" are commonly used to refer to officers recommended or not recommended by a board.

NOTE: An officer actually becomes a "selectee" or "nonselectee" at the time the board adjourns.

[43 FR 35687, Aug. 11, 1978, as amended at 45 FR 19231, Mar. 25, 1980]

§ 885.4 Eligibility for consideration.

Section 885.18 tells how to determine eligibility for persons in each promotion category. Sections 885.19, 885.20, and 885.21 list the basic eligibility criteria for LAF, chaplain, judge advocate, and health professions officers. In addition, each officer must:

(a) Be of good moral character.

(b) Be a U.S. citizen. A person selected for appointment who is not a citizen by birth must furnish evidence of citizenship, if the master personnel records do not have such evidence.

(c) Not be in a failed status to a higher temporary grade.

(d) Not be in a deferred status for promotion to a higher ResAF grade.

(e) Not be serving on active duty under 10 U.S.C. 265, 8033, or 8496, or be on active duty for training.

(f) Not have a date of separation within 90 days after the board meets. To become eligible, an officer may ask for a specified period of time contract under Part 888f of this chapter to change the date of separation.

§ 885.5 Central appointment boards.

Central appointment boards meet at HQ AFMPC to consider:

(a) Line officers when selected for promotion to temporary captain, major, or lieutenant colonel and when they have completed 5 and 7 years of total active Federal commissioned service (TAFCS). Officers normally do not compete by rated category (pilot, navigator, and nonrated) when considered in conjunction with the major and lieutenant colonel promotion boards. Pilots, navigators, and nonrated officers considered in conjunction with the captain board and those who have completed 5 and 7 years of TAFCS compete within their separate categories. Normally, each category has a separate quota. Pilot and navigator trainees compete with pilots and navigators, respectively. Rated officers who are disqualified for career aviation service due to other than medical reasons are considered nonrated officers. Rated officers who are disqualified for aviation service due to medical reasons are considered nonrated if all rated Air Force Specialty Codes (AFSCs) have been withdrawn or if the officers are fully qualified in nonrated specialties.

(b) Health professions officers (except physicians and dentists), chaplains, and judge advocates selected for promotion to temporary major and lieutenant colonel. Separate year group consideration is also given as shown in § 885.22. An MSC officer is ineligible for consideration if participating in an education program under AFR 36-13, Medical, Dental, and Veterinary Education Program for Air Force Officers, or AFR 36-46, Medical Service Officer Procurement Programs for In-Service Training.

§ 885.6 Information provided to appointment boards.

Central selection boards evaluate each officer's qualification for appointment by reviewing the information listed in paragraph (a) through (c) of this section. Boards do not consider letters from eligible officers or letters of recommendation on their behalf.

(a) The Officer, HQ USAF Selection Record Group (commonly called the selection folder). AFR 35-44, Military Personnel Records System, paragraph 1-5a(4), lists the documents in the selection folder.

(b) Information in the HQ USAF Digest File System, as appropriate. (See AFR 36-25, Digest Files.)

(c) A recommendation that an officer is not qualified under § 885.13.

(d) Any other information and guidance the board may need, as long as such information is not prohibited by another directive.

§ 885.7 Other appointments.

(a) USAF Academy (USAFA) graduates are commissioned in the RegAF according to 10 U.S.C. 9353. The Academy (USAFA/CWPP) sends HQ AFMPC/MPCAJB2, Randolph AFB, TX 78148, the names of prospective graduates by February 1 of each year. Applications from USAFA cadets for a commission in one of the other services according to 10 U.S.C. 541 are also sent to HQ AFMPC/MPCAJB2 by February 1 of each year. Applications must include the cadet's class standing at the end of the third school year; the cadet's service preference; SF 88, Report of Medical Examination; SF 93, Report of Medical History; and AF Form 2584, Record of Personnel Security Investigation and Clearance.

(b) Graduates of the U.S. Military Academy (USMA) and the U.S. Naval Academy (USNA) are commissioned in the RegAF according to 10 U.S.C. 541. The respective services send the names of USMA cadets and USNA midshipmen approved for commissioning in the RegAF to HQ AFMPC/MPCAJB2, Randolph AFB, TX 78148,

by February 1 of each year. The items in paragraph (a) of this section are included with the list of names.

(c) Officers selected for promotion in the secondary zone to temporary major, lieutenant colonel, or colonel are recommended for a RegAF appointment, if eligible. (See §§ 885.4, 885.19, 885.20, and 885.21.)

(d) Physicians and dentists on EAD who have served at least 12 months on their current tours may apply for RegAF appointments. Each individual sends a letter requesting appointment to the servicing CBPO. If not selected, the officer may reapply 1 year after being notified of the nonselection.

(e) Graduates of the School of Medicine, Uniformed Services University of the Health Sciences (USUHS), who are assigned to the Air Force are tendered a Regular appointment, if qualified. (See AFR 36-24, Admission Policies and Procedures for the School of Medicine, Uniformed Services University of the Health Sciences.)

(f) A former Regular officer eliminated from the Medical, Dental, or Veterinary Education Program (see AFR 36-13, Medical, Dental, and Veterinary Education Program for Air Force Officers) may request reinstatement of a Regular appointment by sending a letter to HQ AFMPC/MPCAJB2, Randolph AFB, TX 78148. The letter may contain any information the officer believes is relevant to the request. Requests are sent to the Secretary of the Air Force/Personnel Council (SAF/PC) for Secretarial determination.

[43 FR 35687, Aug. 11, 1978, as amended at 45 FR 19231, Mar. 25, 1980]

§ 885.8 Medical qualification for Regular appointment.

After being notified of selection:

(a) Line officers, chaplains, and judge advocates must have AF Form 944, Medical Certificate for Indefinite Reserve Status and Regular Appointment, completed by the Director of Base Medical Services or by the Medical Evaluation Board (MEB) convening authority. This form certifies the officer is qualified for worldwide duty under AFR 160-43, Medical Examination and Medical Standards. However, chaplains and judge advocates who required a medical waiver for entry on active duty must have a physical examination under commissioning standards. (See AFR 160-43, chapter 4.)

(b) Officers in the health professions in Indefinite Reserve Status (IRS) (see AFR 36-14, Indefinite Reserve Status) must also have an AF Form 944 completed by the Director of Base Medical Services or the MEB convening authority; those in the health professions who are not in IRS must have a physical examination and meet the commissioning standards in AFR 160-43, chapter 4.

(c) Some officers selected for a Regular appointment may develop medical complications after certification by medical authorities, but before taking the oath of office. These officers must be recertified by medical authorities, and HQ AFMPC/MPCAJB2 informed of the circumstances before the oath is executed. If officers selected for a Regular appointment are medically disqualified, but later become medically qualified, they may apply to HQ AFMPC/MPCAJB2, Randolph AFB, TX 78148, to have the appointment reinstated.

§ 885.9 Supplemental consideration for Regular appointment.

An officer is considered by a supplemental board if he or she was eligible to be considered by a normally scheduled Regular appointment board, but was not considered because of an error or oversight affecting eligibility. The officer is notified in writing and given the reasons that supplemental consideration is necessary. Supplemental consideration is not authorized if a board considered an officer whose record had an error or omission. In this case, the officer may apply to the Air Force Board for Correction of Military Records (refer to Part 865 of this chapter, Subpart A). If the error or omission affected eligibility and the officer should have been considered by an earlier board or in a different category, then consideration by a supplemental board is appropriate.

§ 885.10 Propriety of appointment.

If there is reason to believe an officer is morally or professionally not

qualified for a Regular appointment, it is in the best interest of the Air Force for the proper authority to start action to delay the appointment, remove the officer's name from the nomination list, or recommend that the officer is not qualified for a Regular appointment. Recommendations are processed according to Table 12 of AFR 36-5, Appointment of Officers in the Regular Air Force, and §§ 885.11, 885.12, and 885.13.

(a) A recommendation to find an officer not qualified is appropriate when he or she will be looked at by a central appointment board. If an officer is considered for Regular appointment at the same time as selection for temporary promotion to captain, major, or lieutenant colonel, a separate recommendation to find the officer not qualified for Regular appointment is not required. However, the one recommendation should show the officer is not qualified for either temporary promotion or Regular appointment.

(b) A delay or removal action should be taken if an officer is already selected for a Regular appointment.

(c) A recommendation must be initiated by the officer's immediate, or higher level commander, and completed as promptly as possible. Early identification of the officer, proper documentation, and priority handling by all reviewing officers is essential.

(d) The case file must include all information that bears on the recommendation, unless some information is withheld based on the written advice of a judge advocate.

(e) An officer must be given the opportunity to comment on any information added to the case file after he or she first reviews and acknowledges the recommendation.

(f) The original documents should be in the case file. Reproduced copies must be easily readable. If necessary, the documents must be retyped, and each one must be certified.

(g) Once the proper authority initiates a recommendation to delay an officer's appointment, find the officer not qualified, or remove the officer's name from the nomination list, the case must be sent through channels to the MAJCOM. The major commander may disapprove the recommendation.

§ 885.11 Delaying an appointment.

(a) If there is reasonable doubt as to the propriety of an officer's accepting a Regular appointment, a commander should delay the officer's acceptance until after determining whether the officer should be allowed to take the oath of office.

(b) A commander must initiate a recommendation to delay an officer's appointment before the officer takes the oath. The appointment is effectively delayed pending a final decision when the officer is notified, either orally or in writing, that action has been or will be initiated to delay the appointment. If notified orally, the officer must be notified in writing as soon as practical (normally within 24 hours).

(c) The major commander is the delay authority (see § 885.3(a)).

(d) The initial period of delay may not exceed 6 months from the date the commander initiating the delay notifies the officer. If an extension of the delay period is needed, the delay authority must approve the extension in writing before the delay period ends. Although a delay may be extended more than once, no extension may exceed 6 months. Extension of the delay period is automatic if a recommendation to remove an officer from a list is initiated while the delay is in effect.

(e) The commander who starts the delay action must take prompt action to end it as soon as the basis for it no longer exists.

(f) The immediate or higher level commander may start action to end the delay of an officer's Regular appointment at any time. Once a recommendation to end a delay action is initiated, it is sent to the delay authority for decision. An intermediate commander can recommend approval or disapproval, but may not take the final action.

(g) If the recommendation to end the delay is approved, HQ AFMPC/MPCAJB2 must be notified in writing. AFMPC/MPCAJB2 then takes action to allow the officer to accept the appointment.

§ 885.12 Removing an officer's name from a Regular appointment list.

(a) A commander should start action to remove an officer's name from a selection list when it is evident that the officer should not be appointed. (See § 885.10.)

(b) The commander must start the recommendation and notify the officer before the officer takes the oath of office. If a delay is in effect, it is not necessary to extend it if the recommendation to remove the officer is initiated before the delay period ends. Also, a separate delay action is not required if a recommendation to remove the officer is initiated before the officer takes the oath of office. The appointment is effectively delayed pending a final decision when the officer is notified, either orally or in writing, that action has been or will be initiated to remove the officer from the selection list. If first notified orally, the officer must be notified in writing as soon as practical (normally within 24 hours).

(c) The President is the removal authority.

§ 885.13 Recommending that an officer is not qualified for a Regular appointment.

A recommendation that an officer is not qualified must be sent in time to get the case file to the president of the board before the last scoring for the officer's promotion category.

(a) Although the major commander makes the final recommendation that the officer is not qualified for promotion, such a recommendation does not make the officer ineligible for consideration. The recommendation is sent to the board for use in evaluating the officer's selection folder.

(b) Unless the major commander withdraws the recommendation that an officer is not qualified, it remains in the file until the board adjourns.

§ 885.14 Active duty service commitment.

An officer who has been appointed in the Regular Air Force must serve at least 5 years of continuous active commissioned service during his or her current tour of active duty, including 1 year after accepting the Regular Air Force appointment. See AFR 36-51, Active Duty Service Commitments.

Exception: Line of the Air Force (LAF) officers selected for Regular appointment by the CY 1979 5- and 7-Year Regular Appointment Board, which convened April 23, 1979 or by a later board, will not incur an ADSC when they accept a Regular appointment. Officers, other than LAF, who accept a Regular appointment on or after October 1, 1979, will not incur an ADSC.

[43 FR 35687, Aug. 11, 1978, as amended at 45 FR 19231, Mar. 25, 1980]

§ 885.15 Probationary period.

The appointment of any person under this part is probationary for 3 years after accepting the appointment.

§ 885.16 Posthumous appointment.

A posthumous appointment in the Regular Air Force may be given to an officer who is selected for appointment, but who was not able to accept it because of death in the line of duty. The immediate commander sends the request to HQ AFMPC/MPCAJB2, Randolph AFB, TX 78148. When the order is published, HQ AFMPC/MPCC sends a letter with copies of the order and DD Form 1AF, to the next of kin. No financial benefits result from a posthumous appointment.

§ 885.17 Designation to perform certain professional functions and promotion list transfers.

The reassignment of a Regular officer to duties in promotion categories other than LAF requires two actions. First, the officer must be designated on orders to perform those functions according to 10 U.S.C. 8067. Next, the officer must be transferred to the promotion list for that category according to 10 U.S.C. 8296.

(a) For those health professions officers who do not need to be reappointed, and for all chaplains, the designation is in the reappointment or promotion list transfer order. For judge advocates and health professions officers who need to be reappointed, the functional manager publishes the designation orders.

(b) On receipt of the designation orders or the notification from the functional manager, the officer is

transferred to the Regular promotion list for that category of officers.

(1) If constructive credit is awarded, the officer must be reappointed. This requires nomination by the President, confirmation by the Senate, and completion of a new oath by the officer.

(2) If constructive credit is not awarded, special orders are published transferring the officer to the new promotion list.

(3) Until the officer accepts the reappointment or special orders are published transferring the officer to the new promotion list, the officer continues to compete for permanent promotion in the promotion category from which he or she is being transferred. Officers compete for temporary promotion based on the professional functions they are designated to perform.

(c) Officers in the health professions completing an education program that requires a promotion list transfer are identified to HQ AFMPC/MPCAJB1C by their functional managers and transferred or reappointed by that office.

(d) Any constructive credit for Promotion List Service under this part or any temporary grade credit the officer has previously received is withdrawn when the officer transfers to a different promotion category. (See AFR 45-26, Voluntary Entry on Extended Active Duty (EAD) of Commissioned Officers of the Reserve Forces, paragraph 12, and table 1.) This may result in the officer's being appointed in a lower grade or with less seniority in the temporary or permanent grade.

§ 885.17a Application procedures for promotion list transfers.

A Regular officer may request a promotion list transfer by submitting a letter to HQ AFMPC/MPCAJB1C. This request will include the promotion category which the officer desires to enter and the reasons for the transfer. Additional supporting documents, such as diplomas, transcripts of special college work or any other documents, may also be attached to this request.

(a) On receipt of the application, HQ AFMPC/MPCAJB1C will coordinate the application between the losing and gaining functional managers (FM) for their comments and recommendations. After coordination with FM, the application is sent to HQ AFMPC/MPCA for final approval or disapproval.

(b) If application is approved, the gaining and losing FM will establish an effective date. HQ AFMPC/MPCAJB1C will notify the individual and transfer the officer to the new promotion list, unless the officer is required to be reappointed. In these cases, HQ AFMPC/MPCAJB1C will take the actions required in § 885.17, before transferring the officer to the new promotion list.

(c) Disapprovals will be returned by HQ AFMPC/MPCAJB1C through command channels to the individual.

[45 FR 19231, Mar. 25, 1980]

§ 885.18 Categories of personnel to be considered for Regular Air Force appointments and the statutory authority for the program.

RULE	A	B	C
	If the person being considered for RegAF appointment is a	then the statutory authority for the appointment is	and to determine basic eligibility for the appointment, GO TO
1	line of the Air Force officer	10 U.S.C., chapter 835	§885.19.
2	physician		§885.20.
3	dentist		
4	nurse		§885.21.
5	biomedical sciences officer (except dietitian or physical or occupational therapist)		§885.19.
6	biomedical sciences officer (dietitian or physical or occupational therapist)		§885.21.
7	medical service corps officer		§885.19.
8	veterinarian		
9	judge advocate		
10	chaplain		
11	cadet of the US Air Force Academy	10 U.S.C. 541, 9353, and chapter 835	§885.7.
12	cadet or midshipman of the US Military or Naval Academy		

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481

§ 885.19 **Basic eligibility for line of the Air Force, Medical Service Corps, and Biomedical Sciences Corps (except dietitian or occupational or physical therapist), Veterinarian Corps, Chaplain, and Judge Advocate.**

RULE	A	B	C	D	E
	If the person to be considered for RegAF appointment is a	then he or she must be	and at the time of appointment must be	and must be	and to determine service credit and Regular grade, GO TO
1	line of the Air Force officer	a Reserve officer serving on EAD	at least 21 years old and be able to complete 20 years of active commissioned service in the US Armed Forces before his or her 55th birthday		table 1 in AFR 36–3 and table 9 in AFR 36-5.
2	medical service corps officer				
3	biomedical sciences corps officer (except dietitian or occupational or physical therapist)				
4	veterinarian			currently designated to perform veterinary duties and be a graduate of a veterinary school acceptable to the Surgeon General, USAF	
5	chaplain			currently assigned to chaplain duties; have at least 120 undergraduate semester hours of credit from an accredited or recognized college or university; have completed at least 90 graduate semester hours of credit or an appropriate degree from a theological seminary or graduate school of theology that is part of a university; and have an ecclesiastical indorsement from his or her religious indorsing agency (see note)	
6	judge advocate			a graduate of an accredited law school; currently designated as a judge advocate; a member of a bar of a Federal court or of the highest court of a State; and in good standing at the bar	

NOTE: For chaplains of the Church of Jesus Christ of Latter Day Saints, 2 years of missionary service certified by the Military Relations Committee of the Church of Jesus Christ of Latter Day Saints may be credited as satisfying 60 hours of the required graduate studies.

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§ 885.20 Basic eligibility for physicians and dentists.

If the applicant to RegAF appointment is a		RULE 1	RULE 2
A	physician	Yes	
B	dentist		Yes
then the applicant must			
C	have served at least 12 months on current tour of EAD.	X	X
D	be at least 21 years old at the time of appointment.	X	X
E	be able to complete 20 years of active military service and 10 years of active commissioned service by the end of the month of his or her 60th birthday.	X	X
F	be a graduate or prospective graduate of a medical school acceptable to the Surgeon General, USAF.	X	
G	be a graduate or prospective graduate of a dental school acceptable to the Surgeon General, USAF.		X
H	be assigned service credit and Regular grade according to AFR 35–3, table 1 and table 9 in AFR 36-5.	X	X

[43 FR 35687, Aug. 11, 1978, as amended at 45 FR 19231, Mar. 25, 1980]

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483

§ 885.21 Basic eligibility for Nurse and Biomedical Sciences Corps Officers (occupational or physical therapists and dietitians).

		RULE	
If the person to be considered for RegAF appointment is a		1	2
A	Nurse	Yes	
B	Occupational or Physical Therapist or Dietitian		Yes
then the person must			
C	be performing duty in that specialty.	X	X
D	have completed at least 1 year of active commissioned service.	X	X
E	at the time of Presidential nomination (see note 1), not have passed the 30th birthday, if he or she has less than 7 years of service credit, or the 39th birthday if he or she has more than 7 years of service credit (see note 2).	X	X
F	be a graduate of a school of nursing that offers no less than a 2-year basic curriculum acceptable to the Surgeon General, USAF.	X	
G	hold a current registration from a state, the District of Columbia, or a territory.	X	
H	have a baccalaureate degree from an approved school, college, or university.		X
I	have completed either a dietitic internship or occupational or physical therapy course acceptable to the Surgeon General, USAF.		X
J	be assigned service credit and Regular grade according to AFR 35–3, table 1 and table 9 in AFR 36-5.	X	X

NOTES: 1. For advance computational purposes only, estimate the date of Presidential nomination as 6 weeks after the appointment board adjourned.

2. The maximum age may be increased by a period equal to the officer's active commissioned service in the US Armed Forces after 6 December 1941, not exceeding 5 years; however, service before age 21 is not creditable.

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§ 885.22 Regular Air Force year group—Health Professions, Chaplain, and Judge Advocate.

Promotion Category	Total Years of Active Commissioned Service (TAFCSD)			
Health Professions (see note)	3 Yrs	4 Yrs	5 Yrs	7 Yrs
Nurse Corps	X		X	X
Medical Service Corps	X		X	X
Biomedical Sciences Corps	X		X	X
Veterinary Corps	X		X	
Chaplain	X		X	
Judge Advocate	X	X	X	X

NOTE: Physicians and dentists apply for RegAF appointment (see §885.7 (d)).

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485

PART 886 [RESERVED]

PART 887—ISSUING CERTIFICATES IN LIEU OF LOST OR DESTROYED CERTIFICATES OF SEPARATION

Sec.

887.1 Purpose.
887.2 Explanation of terms.
887.3 Safeguarding certificates.
887.4 Persons authorized CILs.
887.5 Requesting CILs.
887.6 Issuing CILs.
887.7 Persons separated under other than honorable conditions (undesirable or bad conduct) or dishonorable discharge.
887.8 Where to apply for certificates.
887.9 Furnishing photocopies of documents.

AUTHORITY: Sec. 8012, 70A Stat. 488, 10 U.S.C. 8012; DOD Instruction 1332.13, December 23, 1968.

SOURCE: 45 FR 62427, Sept. 19, 1980, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation 35-96, November 5, 1979.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 887.1 Purpose.

This part tells who may apply for a certificate in lieu of a lost or destroyed certificate of separation and where and how to apply. It implements 10 U.S.C. 1040 and DOD Instruction 1332.13, December 23, 1968. Each form used to collect personal information has an associated Privacy Act Statement that will be given to the individual before information is collected.

§ 887.2 Explanation of terms.

(a) *Certificate in Lieu (CIL).* A certificate issued in lieu of a lost or destroyed certificate of service, discharge, or retirement.

(b) *Service Person.* One who:

(1) Is currently serving as a member of the Air Force, or

(2) Formerly served in the active military service as a member of the Air Force and all military affiliation was terminated after September 25, 1947.

(c) *Surviving Spouse.* A survivor who was legally married to a service person at the time of the person's death.

(d) *Guardian.* A person or group of persons legally placed in charge of the affairs of a service person adjudicated mentally incompetent.

§ 887.3 Safeguarding certificates.

Certificates of separation are important personal documents. Processing applications for CILs is costly to the Air Force. To keep requests for CILs at a minimum.

(a) Personnel officers will tell members the importance of safeguarding the original certificates.

(b) Persons who issue CILs (§ 887.8) will type or stamp across the lower margin "This is an Important Record—Safeguard It" (if it is not printed on the certificate).

NOTE: Do not show this legend on DD Form 363AF, Certificate of Retirement.

§ 887.4 Persons authorized CILs.

CILs may be issued only to:

(a) A service person whose character of service was honorable or under honorable conditions.

(b) A surviving spouse.

(c) A guardian, when a duly certified or otherwise authenticated copy of the court order of appointment is sent with the application.

§ 887.5 Requesting CILs.

(a) Standard Form 180, Request Pertaining to Military Records, should be used by persons who had service as shown in § 887.4(a). However, a letter request, with sufficient identifying data and proof that the original certificate of separation was lost or destroyed, may be used. Members on active duty will forward their applications through their unit commander.

(b) Standard Form 180, or any similar form used by agencies outside the Department of Defense, will be used by persons shown in § 887.4 (b) and (c), and § 887.7.

NOTE: Persons authorized CILs may be assisted in their requests by the Customer Service Unit in the Consolidated Base Personnel Office (CBPO).

§ 887.6 Issuing CILs.

The issuing authority makes sure that the proper CIL form is issued, particularly if the service person has had both Army and Air Force service. The assignment status as of September 26, 1947 determines whether the person was in the Army or Air Force at the time of discharge or release from active duty. Separations before that date are considered Army separations. Those on or after that date are considered Air Force separations, unless the records clearly show the person actually served as a member of the Army during the period of service for which the CIL is requested. Individuals indicated in § 887.4 may be issued CILs prepared on one of the following forms:

(a) DD Form 303AF, Certificate in Lieu of Lost or Destroyed Discharge, to replace any lost or destroyed certificate of discharge from the Air Force.

(b) DD Form 363AF, Certificate of Retirement, to replace any lost or destroyed certificate of retirement from the Air Force (issued only to service members).

(c) AF Form 386, Certificate in Lieu of Lost or Destroyed Discharge (AUS), to replace any lost or destroyed certificate of discharge from the Army.

(d) AF Form 681, Certificate in Lieu of Lost of Destroyed Certificate of Service (AUS), to replace any lost or destroyed certificate of service, or like form, issued on release from extended active duty (EAD) in the Army.

(e) AF Form 682, Certificate in Lieu of Lost or Destroyed Certificate of Service (USAF), to replace any lost or destroyed certificate of service, or like form, issued on release from EAD in the Air Force.

§ 887.7 Persons separated under other than honorable conditions (undesirable or bad conduct) or dishonorable discharge.

Those persons whose character of service was under other than honorable conditions or dishonorable are not eligible for CILs. However, an official photocopy of the report of separation, if available, may be sent on request. Mask out the items, "authority and reason" and "reenlistment code," before the copy is made. Enter a dashed line in these items on the photocopy.

(a) If a report of separation is not available, furnish a brief official statement of military service. Use the letterhead stationery of the issuing records custodian. File a copy of the statement in the Master Personnel Record.

(b) If DD Form 258AF, Undesirable Discharge, has been issued, it may be replaced with DD Form 794AF, Discharge Under Other Than Honorable Conditions. Former members may apply to the CBPO at any Air Force base.

(c) Charge a $3 fee for issuing a document under this section, with the exception of paragraph (b) of this section.

§ 887.8 Where to apply for certificates.

(a) DD Form 363AF. HQ AFMPC/MPCDOO, for officers, and HQ AFMPC/MPCDOA, for enlisted members, Randolph AFB, TX 78148. Applicant must attach a copy of the retirement order to SF 180.

(b) All Other Certificates:

(1) HQ AFMPC/MPCDOO, for officers, and AFMPC/MPCDOA, for enlisted members, Randolph AFB, TX 78148, for:

(i) Members on EAD or on the temporary disability retired list.

(ii) General officers in retired pay status.

(2) NPRC/MPR-AF, 9700 Page Blvd., St. Louis, MO 63132, for officers and enlisted members:

(i) Completely separated from the Air Force or Air National Guard.

(ii) In a retired pay status, except general officers.

(iii) In the retired Reserve who cannot become eligible for retired pay.

(3) ARPC/DPSFB, Denver, CO 80280, for Air National Guard and Air Force Reserve officers and enlisted members not on EAD, including retired Reserve who will be eligible for retired pay at age 60.

§ 887.9 Furnishing photocopies of documents.

This part does not prohibit authorities (§ 887.8) from supplying photocop-

ies of certificates of service, reports of separation, or similar documents.

PART 888—ENLISTMENT IN THE U.S. AIR FORCE

Sec.

888.1 Purpose.
888.2 Qualifications for enlistment in the Regular Air Force.
888.3 Regular Air Force Nonprior Service (NPS) programs.
888.4 Regular Air Force Prior Service (PS) and special category enlistment programs.
888.5 Enlistment in the Delayed Enlistment Program (DEP).
888.6 Processing actions for enlistment in the Regular Air Force.
888.7 Preparation of application for enlistment and USAF enlistment agreement documents.
888.8 Enlistment procedures for oversea Nonprior Service (NPS) applicants.
888.9 Minimum mental requirements (USAF).
888.10 Place of enlistment, NPS applicants.
888.11 Grade determination for NPS enlistees.
888.12 Miscellaneous forms and tables.

AUTHORITY: 10 U.S.C. 8012 and 10 U.S.C. 511(a).

SOURCE: 44 FR 36945, June 25, 1979, unless otherwise noted.

NOTE: Air Force Regulation 33-3, October 14, 1977, including Change 1, January 16, 1978; Change 2, September 29, 1978; and Change 3, November 10, 1978.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 888.1 Purpose.

This part prescribes the eligibility requirements and administrative procedures for enlistment in the Regular Air Force and the United States Air Force Reserve (Delayed Enlistment Program). It applies to all enlistment activities. It implements DOD Instructions 1304.2, March 14, 1975, 1145.2, June 23, 1965; DOD Directives 1145.1, September 13, 1967, 1304.11, October 30, 1967, 1205.14, November 22, 1974, and 10 U.S.C. 511(a).

§ 888.2 Qualifications for enlistment in the Regular Air Force.

(a) *Citizenship requirements.* (1) Applicant must be a US citizen, US National, or have a valid INS Form I-151 or I-551, Immigration and Naturalization Service Alien Registration Receipt Card, as evidence of lawful entry into the US or permanent residence, for AD enlistment. Aliens may be enlisted into the Delayed Enlistment Program (DEP) if they have a certified (raised seal) INS Form G-641. A valid INS Form I-151 or I-551 must be presented and registration number checked with INS officials prior to AD enlistment. Do not reproduce any INS form.

(2) An alien spouse or natural child of a member of the Armed Forces of the US or of a civilian employee of the US stationed in an overseas area pursuant to official orders, in possession of a valid INS Form I-151 or I-551 is eligible for enlistment. The INS Form I-151 or I-551 is valid, for reentry purposes, as long as the spouse or natural child is preceding or accompanying the member or employee, or is following to join the member or employee, within 4 months of their return to the US.

(3) The natural child(ren) born abroad when one or both parent(s) are US citizens are eligible for enlistment if the child(ren) can produce a certificate of citizenship issued in the US by the Commissioner of Immigration and Naturalization Service on a Form N-560 or N-561. If applicant cannot produce this form, contact the nearest American Consular Official for determination.

(b) *Physical standards.* (1) Male NPS applicants must meet the physical standards of AR 40-501, Medical Service Standards of Medical Fitness, chapter 2, regardless of examining location. Exception: Weight tables in AFR 160-43 are used instead of those in AR 40-501 for all enlistees entering any component of the US Air Force. USAF Armed Forces Examining and Entrance Station (AFEES) liaison NCOs temporarily disqualify any male applicant whose weight is over AFR 160-43 standards. However, HQ ATC/RS may authorize recruiting group

commanders to enlist exceptionally well-qualified applicants who exceed the AFR 160-43 standard but who are within the AR 40-501 standard. Air Force liaison NCOs complete the weight statement on AF Form 3007.

(2) Applicants other than male NPS must meet the physical standards for enlistment in AFR 160-43. (This includes female, prior service and officer training school (OTS) applicants.) The medical officer conducting the examinaiton may accept as valid for enlistment up to a period of one year:

(i) Report of physical examination given at AFEES.

(ii) Report of Armed Forces separation physical.

(iii) Report of physical examination given by a military medical facility.

(3) The only acceptable documents for verification of physical qualifications are SF 88, Report of Medical Examination, and SF 93, Report of Medical History.

(4) Applicants enlisting for any AFSC requiring an electronics aptitude area or the mechanical aptitude area, which requires M-60 or above, must have normal color vision. Normal color vision must be indicated in SF 88, item 64. All enlistees must have minimum "X" factor rating of "3" and at least the specific rating required for GTEP skill shown in § 888.12(a)(1).

(5) If an applicant is found medically disqualified and the medical examiner's opinion is that the examinee is capable of performing worldwide duty without compromising health or safety, a request for medical waiver may be submitted according to AFR 160-43, paragraph 3-5. Forward the report of medical examination and allied medical documents in original and one copy to HQ ATC/SGPAA, Randolph AFB TX 78148, for final action.

(c) *Age requirements.* All applicants, except those specified in § 888.4, must meet the following standards:

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AGE REQUIREMENTS FOR ENLISTMENT (USAF)

RULE	A	B	C
	If applicant is	then the minimum age is attainment of the (see note 1)	and the maximum age limit is less than
1	NPS	18th birthday	the 35th birthday.
2	PS		35 (see note 2).

NOTES: 1. Minimum age for enlistments is 17 when Parental/Guardian Consent for Enlistment of a Minor in the US Armed Forces has been properly executed by parents or legal guardians in Section VI, DD Form 1966. Parental consent is not required for a married 17-year-old applicant.
2. Active duty time in Regular Component when reduced from present age must equal less than 35.

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490

(d) *Mental and educational requirements.* (1) Mental testing:

(i) *Passing Scores.* All applicants must have passing scores as set by § 888.9, and also qualify as outlined in paragraph (d)(1)(ii) of this section.

(ii) *Additional Qualifications and Restrictions on Enlistments.* Applicants enlisting for a specific aptitude area or AFSC must have the passing score listed in AFR 35-1 for that aptitude area. In addition, applicants must be able to speak, read, write, and understand the English language well enough to satisfactorily absorb required Air Force military and technical training. A minimum entry qualifying score on the ASVAB usually is valid evidence that the applicant reads and understands English.

(iii) *Testing Guidelines:*

(A) Administer the ASVAB to applicants before the medical examination.

(B) Do not administer the ASVAB to:

(*1*) Any applicant who is on active duty.

(*2*) A HS student, unless he or she is scheduled to graduate during the current school year, or is tested under the HS Testing Program.

(iv) *Retesting:*

(A) Retests with ASVAB 6 or 7 may be made 6 months after the initial test with ASVAB 5, 6, or 7. Exceptions may be made (no earlier than 30 calendar days after the initial test) when the recruiting commander who is a major or above, personally determines that the initial test scores may not reflect the true capability of an applicant. However, additional retests cannot be authorized until 6 months after the latest retest accomplished by AFEES.

(B) Only the scores on the latest test are valid for enlistment.

(2) Minimum educational requirements for enlistment. Refer to § 888.9 for mental requirements and educational level.

(i) State certification is required for enlistment as a HS graduate equivalent.

(ii) Applicants with a certificate of proficiency issued by the California State Board of Education are considered HS graduates.

(iii) HS diplomas issued by schools authorized to grant such diplomas in the Virgin Islands, Canal Zone, Guam, and American Samoa should be recognized as valid.

(iv) Applicants educated in schools not in the American Educational System must be evaluated before enlistment. They may submit an application to the Credentials Evaluation Service of the International Education Research Foundation, P.O. Box 24679, Los Angeles CA 90024. Payment of the evaluation fee ($25) is the applicant's responsibility. As an alternative, such applicants may choose to apply for the State-certified GED equivalence. If a State Department of Education or proper State authority considers an applicant to be equivalent to a high school diploma graduate from the American Educational System, the applicant is acceptable to the Air Force as high school diploma graduate. Obtain certification, in writing, from appropriate agency.

(e) *Conditions which make applicants ineligible to enlist.* See § 888.12(a)(2) for a summary of conditions that can make an applicant ineligible to enlist in the Regular Air Force or US Air Force Reserve (Delayed Enlistment Program (DEP)).

(f) *Exceptions for obtaining specific authority for enlistment.* The USAF Recruiting Service sends requests for waivers of applicants to enlist to HQ AFMPC/MPCMI, Randolph AFB TX 78148.

(1) General information:

(i) An additional review may be made of those applicants whose eligibility for enlistment is doubtful because of:

(A) Reason for last separation from the Armed Forces, or

(B) Possible moral disqualification.

(ii) When a request for specific authority to enlist an applicant is disapproved, the applicant is then ineligible to enlist. Applicants who require specific authority to enlist must be told that the processing completed to determine eligibility does not obligate the Air Force. They must also be told that they should not stop their present employment or dispose of any personal property.

(iii) Statutory requirements for enlistment cannot be waived.

(2) *Authorization required.* HQ ATC/RS may submit to HQ AFMPC/MPCMI, fully justified requests to enlist an applicant who was:

(i) Separated and charged with time lost under 10 U.S.C. 972.

(ii) Separated with honorable discharge but whose DD Form 214, Report of Separation From Active Duty, or DD Form 215, Correction to DD Form 214, contains an RE code that bars enlistment. Discharge must not have been due to punitive or administrative actions that involve bad character traits or poor duty performance. Recruiting detachments make an evaluation using the whole-person concept, and send a request for waiver on only those applicants who meet all requirements of the NPS or PS programs (age, active service, mental, moral and skills requirements). Defer the physical examination until waiver processing is completed.

(iii) Separated due to incomplete enlistment agreement. Requests for waiver may not be processed until 12 months after date of separation (DOS).

(iv) Separated for hardship reasons. Requests for waiver may not be processed until 12 months after DOS. The burden of furnishing proof that the conditions at the time of discharge have changed is on the applicant. Include the following, in duplicate, with request:

(A) Affidavit or sworn statement of applicant that the hardship or dependency is permanently terminated.

(B) Proof in the form of affidavits or sworn statements that the hardship or dependency condition has ended. These statements may be made by the applicant and other members of the community familiar with the home conditions involved.

(3) Authorizations required from HQ ATC/RS. Applicants convicted or judged guilty of an offense are ineligible to enlist without waiver. On request of applicant, the recruiter submits a documented application for waiver to HQ ATC/RS.

(4) Uniform guidelist for typical offenses. See § 888.12(a)(3).

(5) Illegal drug usage:

(i) Enlistment and Oficer Training or Commissioning and Appointment Programs. An applicant is ineligible for enlistment, for an officer training program if he or she has:

(A) Ever been arrested by the police for marijuana usage, possession, or

(B) Ever used LSD, or

(C) Ever illegally used narcotics or dangerous drugs, or

(D) Illegally been a supplier of any drugs as defined in AFR 30-2, paragraph 4-2.

(ii) [Reserved]

(iii) *Waivers.* Specific instructions on granting waivers for preservice drug abuse is in FOR OFFICIAL USE ONLY correspondence provided to procurement commands.

(6) Enlistment of personnel last separated because of existed prior to service physical disability. Applicants previously discharged for failure to meet physical standards at time of enlistment may request an enlistment waiver only if they furnish medical evidence that the physical defect responsible for the separation no longer exists. If the AFEES Medical Officer determines an applicant is physically qualified for enlistment, applicable Recruiting Detachment sends medical examination results and requests evaluation and enlistment approval from HQ ATC/SGPAA, Randolph AFB TX 78148. Evaluation request must include:

(i) Detailed description of physical defect responsible for discharge.

(ii) Occupation since discharge.

(iii) Changes in employment and reasons for change.

(iv) A copy of Veterans Administration medical records, if applicable.

(7) Waiver action by HQ ATC/SGPAA:

(i) If approved, return to USAFRS/RSOPA who obtains an RE code waiver for Regular Air Force applicants from HQ AFMPC/MPCMI, Randolph AFB TX 78148.

(ii) If disapproved, return all documents to sender.

(g) *Applicants with dependents.* Each applicant with dependents must be thoroughly counseled according to instructions on AF Form 3010, Statement of Understanding (Dependency)-United States Air Force. The intent of these programs is to ensure adequate dependent-care arrangements have

been made while the sponsor is undergoing training and transition to military life. The transition period is normally considered to include basic training, technical training, and a period at the initial base of assignment of sufficient duration to adjust to the locale and make suitable child-care arrangements. Certification of Child Care Arrangements will be completed as follows:

I hereby certify that I have made arrangements with ——— (name and complete address) ——— to assume the custody and to provide for the care and welfare of my child(ren) during the period I am attending basic military training with the United States Air Force and for such time thereafter that I am attending Air Force specialty school(s).

(signature of applicant) (signature of person assuming care of child(ren))

The foregoing certificate of Child Care Arrangements was sworn and subscribed to by —— (name of applicant) ———, and the person assuming child care, —— (name) —, this — day of ——, 19—.

NOTARY PUBLIC

(h) *Enlistment of former members of the Peace Corps.*

(1) Former members of the Peace Corps will not be assigned to duty in the intelligence field (AFSC 20XXX).

(2) The term "Former members of the Peace Corps" is intended to include former Peace Corps volunteers, volunteer readers, and staff member of the Peace Corps. The term does not include persons who attended Peace Corps training but did not go overseas with the Peace Corps, except that no such person will be assigned duties in an intelligence capacity in any foreign country for which they were trained to serve in the Peace Corps. Waivers to this policy are not possible due to overriding national interest and will not be submitted.

[44 FR 36945, June 25, 1979, as amended at 45 FR 26037, Apr. 17, 1980; 45 FR 58118, Sept. 2, 1980]

§ 888.3 Regular Air Force Nonprior Service (NPS) programs.

(a) *Applicability for enlistment.* This section applies to all personnel who wish to apply for enlistment in the Regular Air Force. They must have less than 180 continuous days of active military service.

(b) *Place of enlistment and initial assignment.* See § 888.10.

(c) *Enlistment grade and date of rank.* (1) Enlistment grade. See § 888.11.

(2) *Date of rank.* The date of rank for all NPS enlistees is the date when they enlist in the Regular Air Force.

(d) *Enlistment options.* The Air Force has some enlistment options that are made to meet the desires of the individual and the needs of the Air Force.

(1) *Term of enlistment.* All applicants must enlist for a term of 4 or 6 years.

(2) *Aptitude index (AI) enlistment program.* Applicant may enlist and will be assigned to an Air Force Specialty (AFS) that requires a Mechanical, Administrative, General, Electronic (M, A, G, E) score or a combination of such scores. All applicants who enlist must do so without any promise of a specific AFS. They must be assigned an AFS while in basic military training based on the needs of the Air Force, the individual's aptitude, and preferences.

(3) *Guaranteed training enlistment program (GTEP).* Any qualified applicant may enlist for a skill in § 888.12(a)(1). Under this program, if qualified, they are assured of either formal or on-the-job training in the AFS selected. If unable to successfully complete training through no fault of the enlistee, excluding academic deficiency, the enlistee may complete the term of enlistment in another AFS for which qualified and requirements are available, or will be separated. There is no guarantee of tenure in the AFS, although it is not the intent of the Air Force to change the individual's AFS without valid reason.

(4) *Base of choice enlistment option.* Qualified applicants may be accepted on a 4-year term of enlistment when a requirement exists in the GTEP AFSC selected at one of the bases available under this program.

(i) Quotas are listed by base and controlled by USAFRS/RSS. This program guarantees initial assignment at the initial base of choice.

(ii) This option is available to all enlistees in selected AFSCs as announced by USAFRS/RSS.

(5) *Six-year enlistment program.* Applicants scoring 31 or higher on the mental portion of the ASVAB, and enlisting an AFSC authorized for 6-year enlistments as show in § 888.12(a)(1) may enlist for a 6-year term of enlistment. In return, the enlistees are promoted to the grade of E-3 upon completion of basic training unless, through misconduct, they render themselves ineligible for promotion.

(6) *Buddy enlistment options.* Qualified applicants of the same sex are permitted to attend basic military training as members of the same training flight. The option is voided if either individual fails to progress in training at the same rate as the other.

(7) Air Force Reserve and Air National Guard applicants must qualify as prescribed in chapter 2. For enlistment processing and assignment procedures, see paragraph 4-5e.

(8) *Air Force Band.* Qualified musicians may enlist for assignment to a US Air Force band, if a successful audition has been completed. Enlistments must not be more than the current Trained Personnel Requirement (TPR) for band members.

(i) All expenses for preenlistment auditioning are paid by the applicant.

(ii) Applicant may volunteer for assignment to a specific Air Force band or any Air Force band, except the US Air Force Band, Bolling AFB DC 20332.

(iii) The band director auditions applicants according to AFR 190-21. If found qualified in the instrumental performance test for the 3-skill level, applicants are processed as outlined below. Applicants for the USAF Band, Bolling AFB DC, must audition at Bolling AFB.

(iv) Processing:

(A) After auditioning the applicant, and finding him or her qualified, the band director prepares original AF Form 485, Application for Enlistment-US Air Force Band, and forwards it to USAFRS/RSOP, Randolph AFB TX 78148.

(B) USAFRS/RSOP completes AF Form 485, section IV, makes and distributes copies as follows:

(*1*) Original to applicant, who must enlist within 210 calendar days of date of approved application.

(*2*) Two copies to the Recruiting Service detachment concerned.

(*3*) One copy to the Band Director.

(*4*) One copy to SAF/OICE, Wash. DC 20330.

(C) On receipt of approved application, the recruiting detachment sends one copy to the recruiter. On enlistment or declination, recruiter completes AF Form 485, section V, and immediately notifies USAFRS/RSOP.

(D) On enlistment, a copy of approved AF Form 485 is attached to AF Form 3007, if applicable.

(v) An applicant enlisted for the band is reported by Air Force Military Training Center (AFMTC) as a bypassed specialist. This exempts applicant from taking the 3-level Specialty Knowledge Test required by AFR 190-21.

(9) USAF Academy Preparatory School eliminees must qualify as prescribed in § 888.2 and be recommended by the preparatory school commander.

[44 FR 36945, June 25, 1979, as amended at 45 FR 58118, Sept. 2, 1980]

§ 888.4 Regular Air Force Prior Service (PS) and special category enlistment programs.

(a) *Applicability for enlistment.* This section applies to all personnel applying for enlistment in the Regular Air Force who have 180 days or more of continuous active military service.

(b) *Documentary Proof.* A PS applicant must provide documentary proof of prior service before enlistment (see § 888.12(a)(5)).

(1)(i) The DD Form 214 covering last period of active service, the latest AF Form 526 reflecting satisfactory years' service in the Reserves, and a certified document reflecting TAFMS from HQ ARPC for AF reservists or State Adjutant General for National Guard, are the documents to be used to determine eligibility.

(2) Do not enlist an applicant without obtaining Reenlistment Eligibility Code (RE code) and Reason for Separation at time of last separation from former Regular component. Contact the Defense Manpower Data Center

(DMDC) for this information. If not available from DMDC, advise applicant to submit request to NPRC (appropriate branch of service) for RE code and reason for separation. If data cannot be obtained from NPRC, submit a request for waiver according to § 888.2(f).

(c) *Enlistment grade and date of rank.* Except as noted within each category, enlistment grade is specified by § 888.12(a)(7). The date of rank, unless otherwise indicated, is the date of enlistment into the Regular Air Force.

(d) *PS Program.* This paragraph applies to the enlistment of former enlisted personnel, except those covered in paragraphs (e), (f), (g), and (h) of this section. Enlistment of PS applicants in oversea areas is not authorized.

(1) *Skill Determination.* PS applicants must have a Primary Air Force Specialty Code (PAFSC) (shown on DD Form 214/215) that is on the USAF Skills Advisory List and have the specified TAFMS required for that skill. If applicant is eligible to enlist in grade E–6 or E–7, a grade vacancy also must exist. This will be determined by ACC using the USAF Skills Advisory. If applicant is not qualified by these criteria, two options are available:

(i) Enlistment in a second AFSC reflected on applicant's DD Form 214 or 215 if the AFSC is on the PS required skills list, or

(ii) Enlistment to retrain either through technical or on-the-job training into a needed skill.

(2) *Enlistment for a Skill Shown on the USAF Skills Advisory List.* Once the applicant has been determined to be qualified and has a skill in an applicable year-group on the USAF Skills Advisory List, the recruiter checks with the Accession Control Center for assignment and specific enlistment authorization.

(3) *Enlistment for formal training.* Applicant must:

(i) Not have an AFSC, or job skill, which converts to an AFSC on the USAF Skills Advisory List.

(ii) Meet all prerequisites for airman basic resident course according to AFM 50–5.

(iii) Agree in writing to accept results of retention action if he or she fails to successfully complete the technical training course.

(4) *Enlisting for on-the-job retraining (former Air Force members only).* Applicant may enlist for on-the-job retraining in a category B or C skill if he or she:

(i) Meets TAFMS for skill in which retraining.

(ii) Retrains into a skill shown on the USAF Skills Advisory List.

(iii) Accepts assignment to a unit that has a requirement for the AFSC in which enlisting.

(5) *Enlistment in former AFSC.* A PS applicant qualified to enlist in his or her former AFSC may select a base of assignment from those made available by Recruiting Service. This option also may be taken by an airman attending technical training school in a temporary duty status. If the technical training school is to be attended in a Permanent Change of Station (PCS) status, the airman is not authorized to elect a base of assignment; he or she is in the same status as other students of the same school.

(6) *Advance Travel Allowance.* Each PS enlistee may get an advance of travel funds to first duty station. (Travel at Government expense to a military installation to get funds is not authorized.) Air Force accounting and finance officers (AFOs) make advance travel payments without ID card on presentation of the DD Form 4, Enlistment or Reenlistment Agreement—Armed Forces of the United States, and Travel (Enlistment) Orders, if the enlistee has other means of identification.

(7) *Assignment instructions.* Follow procedures furnished by HQ ATC/RS. An applicant enlisted for an oversea assignment goes direct from AFEES to the nearest Air Force installation for oversea processing, and may not take leave until processing has been completed. When early reporting is not authorized, applicant is required to delay enlistment or take advance leave.

(e) *National Guard and Reserve Members of the Armed Forces Not on EAD.*

(1) Do not ask personnel of any Reserve component to enlist in the Regular Air Force. On request, recruiters furnish members with full information

concerning enlistment in the Regular Air Force.

(2) Air National Guard (ANG) and Air Force Reserve personnel whose total active service consists of an initial tour of ADT may enlist under the NPS program even though their total active service is more than 6 months. To be eligible for enlistment in the Regular Air Force, ANG or Air Force Reserve members must have served in active Reserve status twice as long as the time spent in basic military training (BMT) and formal training. (Example: A member who spent 7 months in BMT and technical training is required to serve at least 14 months in the ANG or Air Force Reserve unit after release from IADT.) This requirement may be waived only if elimination of position, or movement of individual to an area where active participation is not feasible. Requests for waiver must be fully documented. Reserve Forces CBPO sends them to HQ AFRES/DPAA or NGB/DPMA, as applicable, for final action.

(3) The recruiter must inform applicants that airmen are not authorized to hold a Reserve commission or warrant in an Armed Force other than the Air Force. Advise applicants to contact the nearest Air Force Reserve unit to obtain information on procedures for transfers to the Air Force Reserve. Action must be completed before enlistment, as all commissions and warrants are revoked automatically as of the date of enlistment.

(4) DD Form 368, Request for Discharge or Clearance From Reserve Component, is required for all members of the Reserve components unless in Army or Air Force Reserves as nonunit members (those not in a pay status). Recruiters send DD Form 368 to Reserve Unit address provided by applicant. Processing is held in abeyance pending receipt of a positive response from the individual's Reserve component. If clearance is not received within 21 days, the recruiter contacts the Headquarters of the Reserve component. If the applicant is being processed as a nonprior service enlistee, the recruiter will request verification of test scores (AFQT, AQE, ACT, or ASVAB), PAFSC and skill level, Security Investigation information, and TAFMS from the applicant's Reserve unit. Verification letter must be signed by the CBPO Chief or unit commander. After receipt of this data, the recruiter will determine preliminary qualifications and send applicant to AFEES for enlistment physical and mental testing, if necessary. AFEES will use letter from the Reserve unit as source document for data verification. If applicant is medically disqualified for enlistment, the AFEES LNCO will return the DD Form 368 and a copy of the enlistment physical to the Reserve unit.

(5) The following procedures apply to applicants assigned to an active AF Reserve or National Guard unit. Although a nonprior service applicant by definition, enlistment and assignment procedures are similar to that of a prior service applicant.

(i) *Enlistment Grade.* See § 888.11. Exception: Those individuals who enlist for 6 years in a guaranteed AFSC (see § 888.10) will be enlisted in grade Airman First Class (E–3).

(ii) *Date of Rank.* See § 888.3(c)(2).

(iii) *Term of Enlistment.* All applicants are enlisted for 4 or 6 years.

(iv) Enlistment will be in applicant's PAFSC and skill level currently possessed in the Reserve unit as long as a requirement exists. Determination of vacancies is made by Recruiting Service Accession Control Center (AAC). If a vacancy does not exist, the applicant is authorized to retrain into a GTEP AFSC offered by the ACC. If retraining is required, individual will retrain the PAFSC possessed while in the Reserve unit as an awarded AFSC. (In no case will skill level be higher than 5.) Retraining is not authorized, if requirements exist in Reserve PAFSC.

(v) *Assignment procedures.* Initial base of assignment is furnished to the LNCO by the ACC after ACC coordination with HQ AFMPC/MPCRA. Assignment may be to an oversea unit, in cases where the applicant has had at least 12 continuous weeks of active duty, or a CONUS unit. Applicants are processed for assignment in the same manner as prior service enlistees. After receipt of assignment instructions from ACC, the LNCO submits Request for Special Orders to AFEES. AFEES will use appropriate prior serv-

ice special order format as shown in § 888.12(a)(18).

(vi) *Date of enlistment.* Applicants enlisting for Direct Duty Assignments (DDA) are enlisted on date mutually agreed to by the individual, LNCO, and ACC. Ensure allowance for travel time to initial duty assignment. Applicants enlisting for Technical Training are enlisted to allow for travel time in order to arrive at Technical Training Center 5 workdays prior to class start date. Mode of transportation will determine amount of travel time authorized. Advance leave is not authorized in either case (DDA or Technical School).

(f) *National Guard and Reserve members of the Air Force on EAD (including Mobilized Personnel).*

(1) *General.* A reservist of the Air Force who is serving on EAD may request discharge for the purpose of immediate enlistment in the Regular Air Force if he or she is qualified according to this paragraph.

(2) *Qualifications:*

(i) Airman must have served on current EAD tour for 12 months or for a longer period, and must be serving in grade E-3 through E-7.

(ii) Applicant must first be screened and selected for enlistment by special boards appointed by wing or base commander. The decision of the appointing authority is final.

(iii) Applicant must meet TAFMS and Control Air Force Specialty Code (CAFSC) criteria in US Air Force Retraining Advisory.

(A) For airmen (E-5 or below) with less than 3 years' TAFMS, the retraining advisory must reflect a shortage in column A.

(B) For airmen (E-5 or below) with more than 3 years but less than 4 years' TAFMS, retraining advisory must reflect a shortage in column B.

(C) For airmen (E-5 or below) with over 4 years' TAFMS, the retraining advisory must reflect a shortage or balance in the appropriate year group.

(D) Comply with "grade" column in retraining advisory for airmen (E-6 or above). The appropriate column must reflect a shortage or balance.

(iv) Maximum age must be less than 28 when reduced by total active service in the Armed Forces, and total satisfactory years in a reserve component. (Applicant must provide an AF Form 526 to verify satisfactory Reserve years.) Section 888.2(c), rule 2 applies.

(3) Primary factors in selection:

(i) Airman's performance to date of consideration.

(ii) Commander's and immediate superior's recommendation for promotion to the next higher grade. When an airman is not recommended for enlistment, the commander and immediate supervisor provide the selection board with a summary of reasons for the recommendation.

(4) Other factors to consider:

(i) Grade and skill level:

(A) Grades E-3 through E-7.

(B) Possession of an awarded AFSC at the 5-skill level (3 when the 5 level does not exist in a particular AFSC) or higher skill level.

(ii) *Aptitudes.* Exhibit a potential for retraining and normal career progression.

(iii) *Education.* See § 888.9.

(iv) *Self-Improvement efforts.* Record of job-related Extension Courses Institute (ECI) courses completed; enrollment in off-duty college courses, Career Development Courses (CDCs); and Air Force Institute of Technology (AFIT) courses completed, etc.

(v) *Training.* Technical school training received, OJT completion, etc.

(vi) Physical condition.

(vii) History of humanitarian or personal problems.

(viii) Other related information which could have a bearing on the selection or nonselection for enlistment.

(5) Place of enlistment and assignment:

(i) Enlist applicant at the CBPO having custody of the airman's records.

(ii) Initial assignment is the same as held by enlistee while on EAD.

(6) CBPO processing:

(i) Process applicant the same as a reenlistee and assure input of Transaction Identification Code (TIC) 478 and update service component.

(A) DD Form 214 must be prepared to release individual from current EAD. Send copy to the appropriate ANG or AFRES headquarters.

(B) Reservists on EAD who have applied for enlistment in the Regular Air

Force are not required to have a Career Job Reservation (CJR).

(ii) Complete all actions for enlistment within 15 calendar days of final approval. Schedule enlistment of applicant under this paragraph far enough before the last day of EAD to make sure that individuals not enlisted arrive home no later than the last day of the contract term of EAD. Place particular emphasis on this in oversea areas. In no case enlist an airman if such enlistment is not effected at least 15 calendar days before date on which term of EAD as a reservist normally would expire.

(iii) Enlisting officers must advise applicant that travel pay and payments for accrued leave are deferred until the new enlistment is completed.

(7) *Grade and date of rank.* Grade and date of rank on enlistment are the same as those held at time of discharge.

(g) *Applicants whose last period of service was in officer status.* (1) Former Air Force officers may enlist in the Regular Air Force, however, each requires specific authorization from HQ AFMPC/MPCMA.

(i) Regular officers who wish to resign and enlist are processed according to AFR 36-12 and:

(A) Must enlist within 90 days from date of separation.

(B) Are not required to meet the PS Program criteria.

(C) Authorized enlistment grade of sergeant (E-4).

(D) Entitled to date of rank according to AFR 35-54.

(2) Non-Regular officers on AD submit applications for enlistments to HQ AFMPC/MPCMA no later than 30 calendar days before projected date of separation. Applications from officers separated from AD are sent directly to HQ AFMPC/MPCMA, Randolph AFB TX 78148. Letters of authorization will include grade entitlement.

(i) To qualify for enlistment they must:

(A) Have been a former enlisted member of the Regular Air Force who last served on AD as a Reserve Officer of the Air Force, or was discharged as an enlisted member to accept a temporary appointment as an officer.

(B) Not have had a break in service of more than 6 months after last date of separation as an officer.

(C) Not be an officer relieved from AD to await appellate review of sentence involving dismissal or dishonorable discharge.

(D) Have been separated with honorabale discharge.

(E) Have approval from The Secretary of the Air Force to enlist if separated with other than honorable discharge.

(ii) Authorized enlistment grade is determined as follows:

(A) Enlisted grade held in the Regular Air Force at time of discharge or separation from last period of enlisted service.

(B) Sergeant (E-4) if not qualified for a higher grade.

(iii) Date of rank is established according to AFR 35-54.

(iv) Applicant is not required to meet the PS program criteria and is processed without regard to age, physical disqualification incurred in line of duty while on active military service, or existing vacancy.

(3) Place of enlistment is any Air Force CBPO with reenlistment processing capability according to AFR 35-16, volume I. Assignment at base of enlistment is not guaranteed unless the applicant has a letter from HQ AFMPC/MPCRA as specified in AFR 39-11, paragraph 3-37.

(4) For terms of enlistment, see AFR 35-16, volume I, table 6-6.

(5) Former Air Force officers ineligible to enlist are those who:

(i) Were discharged with severance pay.

(ii) Were separated or released from EAD for cause by the Secretary of the Air Force or in lieu of such action (including cases initiated under AFR 35-62, 36-2, or 36-3), unless granted a waiver to enlist by the Secretary.

(iii) Were separated with other than an Honorable Discharge Certificate (DD Form 256AF) or released from EAD with entry of other than "Honorable" on DD Form 214, except for applicants covered by paragraph (g)(2)(i)(E) of this section.

(iv) Were separated because of failure of selection for permanent promo-

tion during the 3-year probationary period.

(v) Are eligible for retirement in officer status under any provision of law (applicants under paragraph (g)(2) of this section and AFR 36-12, paragraph 9c(2), are excluded).

(6) Former active officers from other branches of the Armed Forces are ineligible for enlistment in the Regular Air Force.

(7) Officers in a Reserve component may be considered for enlistment under the NPS Program providing they have never been on EAD except for training.

(i) Process applicants according to § 888.3 or § 888.4 as appropriate.

(ii) Submit request for determination to HQ AFMPC/MPCMA.

(iii) The recruiter must inform applicant that airmen are not authorized to hold a Reserve commission or warrant in an Armed Force other than the Air Force. Advise applicant to contact the nearest Air Force Reserve unit to obtain information on procedures for transfer to the Air Force Reserve. Action must be completed before enlistment, as all commissions and warrants are revoked automatically as of date of enlistment.

(8) CBPO processing:

(i) Before enlistment, the CBPO contacts HQ AFMPC/MPCMS to give the following information: name, SSAN, CAFSC, gaining personnel accounting symbol (PAS), date of enlistment (DOE), grade, date of rank (DOR), race, sex, term of enlistment (TOE), education level, ethnic group, category of enlistment, marital status, date of birth (DOB), AFQT score group, AFQT percentile, ASVAB scores, (Administrative, Electronic, General, and Mechanical), Airman Evaluation Test Identification (ID), and action officer's name, grade, and telephone number.

(ii) Enlistment is recorded on DD Form 4 with Accession Designation Number (ADN) 006. Send enlistment documents to HQ AFMPC/MPCDOI, Randolph AFB TX 78148, on date of enlistment. Send duplicate copy of DD Form 4 to ARPC, 7300 East First Avenue, Denver CO 80280.

(iii) HQ AFMPC/MPCMS gains enlistee to the strength of the Air Force.

(iv) Classification is accomplished by CBPO according to AFR 35-1, paragraph 5-5b.

(h) *Airmen removed from the temporary disability retired list (TDRL).* (1) A former airman may enlist as prescribed in § 888.12(a)(8) unless barred by § 888.12(a)(2). (Exceptions: Rules 20, 21, 25, and 29 do not apply.)

(2) Unless enlisting for immediate retirement according to AFM 35-7, member is allowed to enlist for terms of service per AFR 35-16, depending on age, grade, and length of service. Individuals who are eligible for retirement and who normally would be restricted from enlistment due to age, grade, or length of service, are allowed a minimum 2-year term of enlistment.

(3) Applicants may enlist at any Air Force CBPO by presenting:

(i) Letter from HQ AFMPC/MPCARA authorizing enlistment.

(ii) Special order announcing removal from TDRL and discharge.

(iii) DD Form 214 issued at the time of placement on TDRL.

(4) An airman who meets minimum requirements for voluntary retirement and who has recovered from the physical condition for which placed on TDRL, but who is unfit by reason of a condition incurred while on TDRL or 60 calendar days thereafter, may be enlisted with the understanding that retirement for length of service will be accomplished as soon as practicable. To qualify under this paragraph, discharge and removal from TDRL must have been without severance pay. Voluntary retirement must occur as soon as possible.

(5) Before enlistment, the CBPO must contact HQ AFMPC/MPCMS to provide the name, SSAN, gaining PAS, DOE, grade, DOR, race, sex, TOE, education level, ethnic group, category of enlistment, marital status, DOB, AFQT score group, AFQT percentile, ASVAB scores (Administrative, Electronic, General, and Mechanical), Airman Evaluation Test ID, and action officer's name, grade, and telephone number.

(i) CBPOs record enlistment on DD Form 4 with ADN 026. Send applicable enlistment documents to HQ AFMPC/MPCDOXI, Randolph AFB TX 74818, on date of enlistment.

(ii) HQ AFMPC/MPCMS gains enlisteee to the strength of the Air Force.

(i) *Restored Air Force prisoners.*

(1) *Policy.* Airmen who have committed infractions warranting administrative or disciplinary action are to be rehabilitated and returned to duty if in each case:

(i) The member is properly motivated for continued service,

(ii) The member is morally fit, and

(iii) Return or restoration to duty will not adversely affect the esprit de corps or maintenance of good order and discipline.

(2) *Explanation of term "Restored Prisoner."* A restored prisoner is a former member of the Air Force discharged from the Air Force with a dishonorable discharge or bad conduct discharge who is permitted to enlist in the Air Force according to policy expressed in paragraph (i)(1) of this section. The authority for such enlistment is limited to commanders exercising general court-martial authority. In some individual cases special instructions are issued by HQ USAF. Approval of restoration by competent authority constitutes a waiver of existing disqualifications for enlistment.

(3) *Enlistment.* Enlist all restored prisoners for terms of 2 years only.

(j) *Enlisting selected applicants for OTS.*

(1) Individuals who have been notified in writing by ATC of selection to attend OTS are processed in most cases the same as regular enlistees.

(2) Applicant with a letter of selection may be enlisted if not disqualified by conditions which occurred or were discovered after selection.

(3) An official copy of the college transcript must be turned in on arrival at Lackland AFB, TX.

(4) ATC issues instructions covering class assignment, reporting date, career field, and travel.

(k) *Selectees for the US Air Force Academy Preparatory School.* Air Reserve Personnel Center (ARPC) notifies Air Force Reserve/CBPO, Regular Air Force, and Air Force Recruiting organization of individuals who have been selected to attend the AF Academy Preparatory School. The following actions are accomplished by the requested organization:

(1) To enlist individual, prepare DD Form 4 according to instructions provided; administer oath of enlistment.

(2) Publish Reserve orders assigning individual as requested by ARPC.

(3) Forward completed documents to HQ ARPC/DPRP, 7300 East First Avenue, Denver CO 80280.

(l) *Enlistment and Assignment Procedures for USAF Academy Preparatory School Eliminees.* The following are enlistment and assignment procedures for processing eliminees who desire to enter the Regular Air Force.

(1) Enlistment Grade (see § 888.11).

(2) Date of Rank (see § 888.3(c)(2).

(3) Term of Enlistment. Applicants are enlisted for 4 or 6 years. (See § 888.3(d) for enlistment options.)

(4) Provide by message to AFMPC/MPCMAE with information copy to HQ ATC/RSOPA and AFMPC/MPCRAC3:

(i) Applicants name and SSAN.

(ii) ACT or AQE scores.

(iii) Physical profile and color vision.

(iv) Three AFSC choices.

(v) End assignment preferences (three bases or states).

(vi) Action officer's name, grade and telephone number.

(5) Classification and enlistment authorization will be furnished by AFMPC/MPCMAE.

(6) CBPO Processing:

(i) Prior to enlistment, assist the applicant in completing the following forms:

(*a*) DD Form 1966 (see § 888.12(1)(28)).

(*b*) AF Form 2030 (see § 888.2(f)(5)).

(*c*) AF Form 3007 (see § 888.7(d)).

(*d*) AF Form 3008, if appropriate (see § 888.7(da)).

(*e*) DD Form 93.

(*f*) DD Form 2057.

(ii) Input Transaction Identification Code (TIC) 478 and update service component.

(iii) Enlistment is recorded on DD Form 4. Send enlistment documents as indicated in § 888.12(a)(13) and § 888.12(a)(14), on date of enlistment. Send one copy of DD Form 4 to ARPC/DPAA, 7300 East First Avenue, Denver CO 80280.

(iv) CBPO will issue appropriate special order.

(v) Date of Enlistment. Applicants enlisting for Direct Duty Assignment (DDA) are enlisted as soon as possible after receipt of authorization to enlist. Ensure allowance for advance leave and travel time to initial duty assignment. Applicants enlisting for Technical Training are enlisted to allow for advance leave and travel time in order to arrive at Technical Training Center 5 work days prior to class start date.

(m) *Enlistment of Prior Service Personnel for Recruiting Duty*—(1) *General.* Applicants must meet the basic eligibility criteria in AFR 39-11, figure 8-1, item 13. In addition, applicant must:

(i) Be otherwise qualified for the prior service program.

(ii) Have been separated from the Regular Air Force less than 2 years.

(iii) Have prior service in the Regular Air Force with TAFMS between 4 and 12 years.

(iv) Be entitled to enlist in grade E-4, E-5, or E-6 (see § 888.12(a)(7)).

(v) Have personal interview with and be recommended by Recruiting Squadron Commander in the area of enlistment. (All expenses for preenlistment interviews are paid by the applicant.)

(2) Selection and Assignment. Applicant's acceptability for recruiting duty is determined by the Recruiter Selection Committee. Applicants selected will be considered for assignment to positions not filled by volunteers currently on active duty.

(3) For selectees for recruiting duty, the AF Liaison NCO will type the following in the Remarks section of the AF Form 3006.

"If I am removed from recruiting duty, by the Air Force or at my request, before completion of this enlistment, I may be returned to duty in my PAFSC or required to retrain into a needed skill depending on Air Force requirements at the time of my removal."

[44 FR 36945, June 25, 1979, as amended at 45 FR 26037, Apr. 17, 1980; 45 FR 58118, Sept. 2, 1980]

§ 888.5 Enlistment in the Delayed Enlistment Program (DEP).

(a) *To whom this program applies.* The DEP is open to all NPS and OTS applicants who have been accepted for enlistment in the Regular Air Force, and have been granted approval to enlist with authorization in the form of a job reservation or assignment to an OTS class from the US Air Force Recruiting Service. Applicants must enlist in the US Air Force Reserve for a 6-year period and normally are required to be on EAD within 270 days from the date of enlistment in the US Air Force Reserve. Those who enlist in the Guaranteed Training Enlistment Program (GTEP) or selected OTS applicants must be on EAD within 365 days.

(b) *Enlistment Criteria.* Applicants must have all of the qualifications that are required for enlistment in the Regular Air Force (NPS or OTS) with the following exceptions:

(1) Enlistment in the DEP is authorized for:

(i) NPS applicants qualified for enlistment. If applicant is a high school student, they must be within 270 calendar days of their graduation date.

(ii) OTS applicants who are college graduates or college seniors within 365 days of graduation.

(2) Enlistment in the DEP is not authorized for:

(i) Members of a Reserve or National Guard component of any branch of the Armed Forces.

(ii) Applicants for enlistment in the PS program.

(iii) Applicants previously discharged from the DEP.

(c) *Category of enlistment.* Enlist applicant in one of the following categories:

(1) Regular DEP and NPS applicants with job reservation, scheduled to enter the Regular Air Force.

(2) OTS—DEP for applicants who have received official notice of selection for OTS.

(d) *Place of Enlistment.* Enlistment is authorized at AFEES or oversea area where a recruiter is assigned.

(e) *Term of enlistment.* All DEP enlistments are for 6 years for subsequent 4- or 6-year AD enlistment.

(1) Applicants who enter AD in the Regular Air Force for 4 years are assigned to the inactive Air Force Reserve following AD separation for an additional 2 years, minus time spent in the DEP before entry on AD.

(2) Applicants who enter on AD in the Regular Air Force for 6 years have

no further Reserve obligation after completing their initial enlistment.

(f) *Grade and date of rank.* Enlist applicants (NPS or OTS) in the grade authorized in § 888.11 with DOR as date of enlistment into DEP.

(g) *Duty status and assignment.*

(1) The enlistee is assigned to the ARPC Obligated Reserve Section (ORS) DEP until he or she enlist in the Regular Air Force, enters on EAD, or is discharged from the DEP.

(2) The enlistee can not be in any Reserve training while in the ORS DEP.

(3) Enlistees do not receive any pay or allowances while in the DEP. They or any of their dependents are not authorized the use of any military facility, such as the hospital, commissary, or exchange.

(4) All Reserve time spent by the enlistee while in the DEP counts for longevity pay increases.

(h) *Responsibilities of U.S. Air Force Recruiting Service (USAFRS).* (1) Maintain strength accounting on all personnel who enlist in the DEP, by category of enlistment and sex.

(2) Maintain enlistment documents until a reservist does enter on EAD, enlists in the Regular Air Force, or is discharged.

(i) *Processing at recruiting offices.*

(1) Comply with all processing procedures that are prescribed in this part and § 888.12(a)(9).

(2) Advise applicants that they are to enter into a legal contract which may only be terminated if they should become disqualified for enlistment, or if they apply and receive approval for discharge according to applicable directives. Obtain guidance and approval from USAFRS/RSOP, Randolph AFB TX 78148, if a DEP enlistee should object or declines either orally or in writing to enter the Regular Air Force or EAD in the USAFR. (If a reservist is disqualified for enlistment in the Regular Air Force, entry on EAD, or has approved request for discharge, send originals of DD Forms 1966 and 4, and copies of SPs 88 and 93 to ARPC, Denver CO 80280.)

(3) Remind enlistees of their responsibility to inform their recruiter or liaison NCO of any change in status (illness, injury, dependency, martial status) which could affect their continued eligibility for Regular Air Force enlistment.

(j) *Processing at Armed Forces Examining and Entrance Stations (AFEES) or by Overseas Recruiting Personnel.* The AFEES overseas recruiter processes each applicant according to this part. AFEES or overseas CBPOs publish enlistment and EAD orders only on applicants processed by Air Force recruiters.

(k) *Processing actions required after enlistment in the DEP.*

(1) [Reserved]

(2) When the reservist enlists in the Regular Air Force:

(i) The U.S. Air Force Recruiting Detachment returns DEP enlistment case file to AFEES for transmittal according to § 888.6(f).

(ii) AFEES discharges reservist from the USAFR. See sample discharge order, § 888.12(a)(18), to be published by AFEES for discharge from DEP and enlistment in Regular Air Force.

(3) § 888.12(a)(10) establishes procedures to discharge DEP members who have not yet entered on EAD when action is warranted.

(4) If the reservist enters on EAD or is directed to comply with EAD orders, the Armed Forces Examining and Entrance Station (AFEES):

(i) Sends applicable documents listed in § 888.12(a)(13) to HQ AFMPC/MPCDOD, Randolph AFB TX 78148, by nonregistered first-class mail.

(ii) Sends applicable records listed in § 888.12(a)(14) to AFMTC/DPPR, Lackland AFB TX 78236, or servicing CBPO by nonregistered first-class mail.

[44 FR 36945, June 25, 1979, as amended at 45 FR 26037, Apr. 17, 1980; 45 FR 58119, Sept. 2, 1980]

§ 888.6 Processing actions for enlistment in the Regular Air Force.

(a) *Processing procedures.* This chapter explains the procedures for processing and completing actions required for enlistment in the Regular Air Force. When Air Force activities are authorized to enlist applicants, the CBPO (except USAFE CPBOs) is responsible for taking all processing actions prescribed for Recruiting Service

personnel and the AFEES, HQ USAF notifies the MAJCOM concerned of any discrepancies in enlistment actions taken by the CBPO.

(b) *Prequalification of applicant.* Use the procedures below to determine whether or not an applicant may be eligible for enlistment. Unless waivers are required, or unique circumstances exist, ATC/RS is responsible for determining the final acceptability of applicants for enlistment in the Regular Air Force and AFRES/RS is responsible for determining eligibility of applicants for the Air Force Reserve.

(1) *Interview.* Thoroughly investigate any facts which may disqualify applicant before continuing processing. Disqualify applicants with obvious physical defects (§ 888.12(a)(11)). Individuals enlisting under the GTEP must meet all mandatory requirements shown in AFR 39-1 for the AFSC selected.

(2) *Proof of documents.* Originals or duly signed and authenticated copies of all documents must be submitted. When the required information has been entered on the enlistment records, these documents are returned to the applicant.

(3) Proof of education. See § 888.2(d).

(4) Proof of citizenship. For applicant born:

(i) In the United States, its territories, or possessions, the document verifying age (paragraph (b)(6) of this section) is acceptable proof of citizenship.

(ii) Of American parent or parents outside the United States, citizenship must be proved by one of the following documents:

(A) Certificate of Citizenship or United States Citizenship ID Card (I-197) issued by the Immigration and Naturalization Service.

(B) Authenticated copy of Report of Birth Abroad of a Citizen of the United States of America (Foreign Service Form 240). This form is referred to as the Consular Report of Birth, and applicant may get a copy from the Authentication Officer, Department of State, Washington DC 20520.

(C) If none of the documents listed in paragraph (b) (1) or (2) of this section can be produced, a personal U.S. passport identifying the holder as a citizen may be used to verify citizenship.

(D) An alien must have Form I-151 or I-551, Department of Immigration and Naturalization Service Alien Registration Receipt Card, for AD enlistment.

(5) Proof of Social Security Account Number. Each applicant for enlistment in the U.S. Air Force must have an SSAN card, the only acceptable document for proof of the SSAN. Enter the SSAN, as shown on the SSAN card, on DD Form 1966, item 2. If the applicant does not have a card, refer him or her to the nearest SSA district office to submit IRS Form SS-5, Application for Social Security Number (or Replacement of Lost Card) under "expedited processing procedures." Applicant must have the SSAN card in his or her possession when reporting to AFEES for initial enlistment (DEP or RegAF).

NOTE: Applicants enlisting in an overseas area who do not have an SSAN should be instructed to prepare an SSA Form 5 at the nearest American Consulate. The Form 5 should be forwarded to the Division for International Operations (DIO) at the Baltimore Social Security Office for immediate action. The DIO unit is designed to expedite overseas processing request.

(6) Proof of Age. The only acceptable documents for proof of age are:

(i) Birth certificate, including hospital or delayed birth certificate.

(ii) Statement by State registrar of vital statistics or similar State official.

(iii) DD Form 214, Report of Separation From Active Duty, for PS applicants. Accept date of birth recorded thereon as a verified date.

(iv) DD Form 372, Application for Verification of Birth for Official US Armed Forces Use Only. Only use this form to prove age when the applicant is unable to furnish one of the above documents.

(v) Form I-151 or I-551.

(vi) United States passports, naturalization papers, certificate of citizenship, and any other official US documents issued by a Government bureau or department and affixed with a raised seal which reflect the applicant's full name and date of birth.

(7) *Identify.* Make sure that the applicant is the same person whose name is recorded on the documents as proof of his or her age; verify name with social security card, driver's license, and so forth. If the names do not correspond, request applicant furnish:

(i) A copy of court order changing name.

(ii) If there is a difference in the name of the individual's social security card and the name to be used for enlistment, a Social Security Form OAAN-7003 must be completed by the individual and presented to the enlisting activity for mailing to the nearest Social Security Administration District Office.

(8) *Enlistees from the DEP.* AFEES or USAFE CBPOs attach DEP documents to Regular Air Force enlistment documents after processing, and send to HQ AFMPC/MPCDOXI, Randolph AFB TX 78148, for inclusion in the USAF master personnel record group.

(9) DD Form 369, Police Record Check:

(i) The use of DD Form 369 to obtain a police check as a prerequisite for enlistment is mandatory for all NPS and OTS applicants. EXCEPTION: Those periods in the applicant's background when they resided in states, cities, or counties where release of information is specifically prohibited by statutes, and where the law enforcement agencies abide by those statutes and refuse to honor requests for police record checks.

(ii) Check applicant's background for at least 5 years or from date of first offense, whichever is the greater period. (For PS applicants consider only period since last separated from active duty.)

(iii) When authorities refuse to honor DD Form 369, rely on the information provided by the applicant on DD Form 1966 in determining applicant's eligibility.

(iv) Applicants whose records will not be released or are sealed or expunged should be advised to fully disclose all past offenses and disposition. Applicants must understand that investigators may have access to records, and that nondisclosure at the time of enlistment could later result in denial of a security clearance or, if the records were in fact "not sealed," disciplinary or administrative actions that could result in separation under other than honorable conditions that could affect future employment opportunities.

(v) Change the parenthetical phrase "(other than minor traffic violations)" to "(including minor traffic violations)." Send DD Form 369 with a self-addressed return envelope to the Chief of Police, Sheriff, or juvenile agency where the applicant resides, has resided, attended school, was employed, and where the offense was committed. This includes all foreign countries where applicants have lived for 6 months or more.

(vi) When law enforcement agencies will not furnish the required information, annotate interview record accordingly and comply with paragraph (b)(9)(iii) of this section.

(vii) When a reply is not received from a law enforcement agency in 21 calendar days, indicate this in interview record and comply with paragraph (b)(9)(iii) of this section.

(viii) When admitted offenses require specific authority to enlist and a DD Form 369 cannot be obtained, make every effort to verify applicant's status through other sources (juvenile or court records, and so forth). If not successful, process request for waiver based on data revealed by applicant.

(ix) If applicant reveals possible disqualifying offense(s), eligibility must be determined (that is, qualified or waiver obtained) before any further processing of ASVAB, physical, travel, meals, or lodging at Air Force expense is accomplished. Serious offenses admitted by an applicant are disqualifying offenses confirmed by law enforcement agencies. They must be thoroughly investigated and a waiver obtained, if required, before applicant's eligibility can be confirmed.

(x) If applicant is disqualified by data obtained through police check, the recruiter records the Personnel Accounting Symbol (PAS) and destroys DD Forms 369 immediately.

(xi) If applicant is qualified at the AFEES, keep DD Form 369 in the enlistment case file pending enlistment. After entry on AD, DD Form 369 is filed at the AFEES. Destroy according

to AFM 12-50. Destroy forms immediately for applicants who are found mentally or physically disqualified.

(xii) DD Form 370, Request for Report From (Employer), (School), (Personal Reference), may be used for all waiver actions requiring references. Submit at least three references with waiver request, one of which, if possible, should be from the appropriate law enforcement agency, court, juvenile or probation office, if applicant was confined, paroled, placed on probation, or supervision.

(10) *Sealed juvenile record.* Applicants may deny having ever been convicted of a juvenile offense. If the offense record has been sealed, applicants must understand that investigators may have access to records even though "sealed" by civil courts. All applicants should be advised that although not subject to puntitive action based on denial of sealed record, they may later be discharged for the convenience of the Government if the record becomes known to the Air Force. If a sealed record becomes known to the Air Force, it may also be considered in granting or denying a security clearance or awarding specific AFSCs.

(11) *Unsealed juvenile record.* Applicants should be advised that offense and disposition records that have not been sealed should be fully disclosed. Nondisclosure of unsealed records could later result in denial of a security clearance, or disciplinary or administrative action that could result in separation under other than honorable conditions.

(12) *Mental screening tests.* The primary mental or aptitude test is the ASVAB. The recruiter should use the Enlistment Screening Test (EST) to screen out applicants who might not be able to successfully complete the ASVAB. Retesting on alternate versions of the EST after 30 calendar days is authorized; however, not more than two retests may be given in a 12-month period.

(c) *Processing of qualified applicant.* After the applicant has been found preliminary qualified, the recruiter will prepare the following forms and forward all documents listed in § 888.12(a)(11) to enlistment activity for further processing. Depending on local procedures, applicants may hand-carry records to enlistment activity. See §§ 888.7, 888.12(a)(27), 888.12(a)(28) and 888.12(a)(29), for instructions to complete forms.

(1) DD Form 1966, Application for enlistment—Armed Forces of the United States.

(2) AF Form 3006, Enlistment Agreement (Prior Service)—United States Air Force, or AF Form 3007, Enlistment Agreement (nonprior Service)—United States Air Force, as appropriate. Attach letters of specific authorization required for enlistment or grade entitlements to the agreement form.

(3) Complete AF Form 2030, USAF Drug Abuse Certificate (Enlistment Only), and AF Form 2031, Drug Abuse Circumstances, when individual evaluation is requested on AF Form 2030. Prepare originals only.

(i) Thoroughly discuss these forms with the applicant, including the meaning of the terms used (see AFR 30-2). Ensure that the applicant understands that willfully false and misleading statements, as well as omission of essential facts, on AF Form 2030 may be the basis for administrative separation or punitive action after entry in the Air Force.

(ii) Applicants must initial all appropriate certification blocks and sign AF Form 2030. If an applicant refuses to sign the form, tactfully advise that this refusal will bar enlistment.

(iii) [Reserved]

(iv) If an applicant cannot initial the first certification block on AF Form 2030 because he or she has been arrested for possession or use of marijuana, line out the word "never" and have the applicant initial the appropriate blocks and sign the modified form.

(v) Recruiting personnel must make sure that the applicant fully understands the content and meaning of the modified statement.

(vi) If the applicant requests an individual evaluation, the use of AF Form 2031 is required.

(vii) Applicant is required to complete AF Forms 2030 and 2031 before enlistment in the DEP. The Recertification Certificate on the reverse of AF Form 2030 must be completed no earli-

90-112 O—82—33

er than 7 calendar days before enlistment in the Regular Air Force. After enlistment, the AF Form 2030 is filed in the unit personnel record group until the airman reenlists or is discharged.

(viii) AF Form 2031 is destroyed after completion of screening by the waiver authority.

(4) AF Form 3010, Statement of Understanding (Dependency). All applicants who are married or have dependents must certify their understanding of Air Force policy and procedures by completing AF Form 3010. Complete with typewriter or pen according to § 888.7.

(d) *Preenlistment security investigation.* (1) A National Agency Check (NAC) must be initiated by AFEES at time of enlistment on PS applicants who have had a break in service of more than 1 year.

(i) Complete original and one copy of DD Form 1584, Department of Defense National Agency Check Request, and original only of FB Form 258, FBI Fingerprint Card, according to instructions in AFR 205-32. In the "Return Results To" block on DD Form 1584, enter:

(A) The address of the gaining base Chief, Security Police, if the individual will not be attending a technical training course or the technical training course is less than 20 weeks, or

(B) The address of the Chief, Security Policy, of the base where the individual will be attending a technical training course of 20 weeks or longer duration.

(ii) On completion of NAC processing, AFEES sends original DD Form 1584 with FD Form 258 attached to Personnel Investigation Center, Defense Investigative Service, P.O. Box 1083, Baltimore MD 21203.

(2) AFEES initiates ENTNAC or NAC request on all NPS or OTS applicants when requested to do so by the Air Force liaison NCO.

(i) Complete original and two copies of DD Form 1584 and original only of DD Form 369. In the "Return Results To" block of DD Form 1584, enter: 3507 Airman Classification Squadron, (DPKS 1), Lackland AFB TX 78236.

(ii) On completion of ENTNAC processing, AFEES sends original DD Form 1584, with DD Form 369 attached, to Personnel Investigation Center, Defense Investigative Service, P.O. Box 1083, Baltimore MD 21203.

(iii) Send copy of DD Form 1584 to AFMTC, Lackland AFB TX 78236, according to paragraph (f) of this section. EXCEPTION: When an individual becomes disqualified for enlistment or does not enlist, indicate reason in the "Return Results To" Block on the third copy of DD Form 1584 and send to 3507 Airman Classification Squadron, (DPKS 1), Lackland AFB TX 78236. For example: "can not enlist—morally disqualified," "can not enlist—medically disqualified," "can not enlist—declined," "can not enlist—hardship."

(3) The commander, 3507 Airman Classification Squadron, Lackland AFB TX, reviews results and refers questionable cases to USAFRS/RSL, Randolph AFB TX 78148, for Regular Air Force personnel and to HQ AFRES/RS, Robins AFB GA 31098, for Air Force Reserve personnel, for further action.

(4) Send tracers on pending NACs or ENTNACs, as outlined in AFR 205-32, attachment 6 to Personnel Investigation Center/DO 840, Defense Investigative Service, P.O. Box 1211, Baltimore MD 21203.

(5) Applicants enlisting under the provisions of § 888.4(e)(5). The recruiter sends the security information, as furnished by the Reserve unit, to the AFEES for use as follows:

(i) If a NAC/ENTNAC has been completed within the last year, further processing is not required.

(ii) If a NAC/ENTNAC has not been completed or was completed over 1 year ago, comply with instructions in paragraphs (d)(1)(i) and (ii) of this section.

(6) ENTNAC or NAC requests will be submitted for applicants for other programs as requested by the Air force liaison NCO.

(e) *Processing at AFEES or other enlistment activity.* This subparagraph explains the processing actions to be accomplished.

(1) *Review of documents.* The AFEES Air Force liaison NCO must thoroughly review DD Form 1966 and USAF enlistment agreement docu-

ments to ensure accuracy, completeness, and legibility.

(2) *Responsibility of enlisting activity.* Process applicants according to this regulation and accomplish the following:

(i) Prepare and complete for each enlistee:

Form	Prepare IAW
DD Form 4, Enlistment or Reenlistment Agreement—Armed Forces of the United States.	Atch 6.
DD Form 93, Record of Emergency Data.	AFR 35-38.
SF 88, Report of Medical Examination (see note 1).	AR 40-501 or AFR 160-43.
SF 93, Report of Medical History (see note 1).	AR 40-501 or AFR 160-43
VA 29-8286, Servicemen's Group Life Insurance Election (see note 2).	
DD Form 2057, Contributory Educational Assistance Program—Statement of Understanding (see note 3).	

NOTES: 1. Prepare an extra copy of SFs 88 and 93 for an enlistee for the USAF Band and for PS personnel placed in a TDY status to a technical school.
2. Prepare if enlistee has an unusual family relationship and prefers to designate a beneficiary at time of enlistment.
3. Both applicant and witness complete part I as indicated. Part II is completed at BMT.

(ii) Information to applicant. Before applicant signs the DD Form 4 and takes the oath of enlistment, the enlisting officer or designated representative must explain Article 83, Uniform Code of Military Justice, stressing:

(A) The importance of making true statements and the penalties involved for giving erroneous, false, or misleading information.

(B) That personal data and fingerprints are checked with law enforcement agencies.

(C) That concealment of a criminal record may result in trial by court-martial for fraudulent enlistment or dismissal from the service with less than an honorable discharge.

(D) That disclosure of information that would bar enlistment before taking the oath of enlistment will result only in rejection of the applicant with no additional punitive action.

(iii) Review of enlistment forms. The SSAN must be verified by SSAN card at time of enlistment (Delayed Enlistment Program (DEP) or Regular Air Force). Make sure that all entries on enlistment forms are accurate and satisfactory to all concerned before obtaining any signatures. The applicant and enlisting officer must initial all corrections and erasures on DD Form 4 before applicant takes the oath of enlistment.

(iv) Oath of enlistment. Administer the oath in a dignified manner in appropriate surroundings. Display the US flag near the commissioned officer administering the oath.

(v) After enlistment. After applicant takes the oath of enlistment, the enlisting officer must:

(A) Explain Articles 85 and 86, Uniform Code of Military Justice. (May be performed by a designated representative.)

(B) Make sure that the enlistee signs DD Form 4, items 16a or 16b as appropriate. Item 15o is normally signed by AFEES liaison NCO.

(C) Sign DD Form 4, item 16e, 18e, or 19d as appropriate.

(D) [Reserved]

(vi) Preparation and distribution of enlistment orders. Prepare all enlistment orders by using the applicable samples shown in § 888.12(a)(18). The following additional instructions apply:

(A) HQ ATC/RS must furnish the fund citation for each fiscal year.

(B) For all enlistees except NPS, the US Air Force Recruiting Service must furnish a request for orders for each enlistee.

(C) Distribute the Air Force enlistment orders as follows:

Copies provided to—	PS	NPS	OTS	Other
Individual	10	1	3	3.
Duplicate Record	6	2	6	2.
Recruiting Det	2	2	2	As needed.
Recruiting Group	2	0	2	As needed.
USAFRS/RSOP Randolph AFB TX 78148	1	0	0	As needed.

Copies provided to—	PS	NPS	OTS	Other
Unit of Assignment	1	1	1	As needed.
Overseas Unit of Assignment	2	NA	NA	As needed.
Servicing CBPO	12	2	2	As needed.
TDY Unit	5	0	0	As needed.
Orders Publishing Agency	As needed	As needed	As needed	As needed.

(f) *Distribution of enlistment documents by enlistment activity.*

(1) Assemble the documents listed in § 888.12(a)(13) for Regular Air Force enlistees in order indicated from top to bottom. Staple them together in upper left corner, and send within 1 workday to HQ AFMPC/MPCDOX, Randolph AFB TX 78148.

Assemble the documents listed in § 888.12(a)(14) and send to AFMTC, Lackland AFB TX 78236, or the servicing CBPO. Send triplicate copy of DD Forms 4, 4c, and 1966 with all annex(es) to Air Force Recruiting AFEES liaison office, and quadruplicate copies to enlistee.

(2) Place records listed in § 888.12(a)(14) in a sealed envelope for disposition as follows:

(i) For NPS. Records on each Regular Air Force enlistee reassigned from the AFEES to Lackland AFB TX are hand-carried. Designate one enlistee to be responsible for delivery of the sealed envelope to the unit of assignment.

(ii) For PS. On date of enlistment, mail records to unit of assignment in preaddressed envelopes furnished by Recruiting Service. Do not mail records to TDY school location. If airman is placed on TDY to technical training school, give him or her a copy of SFs 88 and 93 to hand-carry.

(iii) For OTS Personnel. OTS personnel will hand-carry their individual records, in a sealed envelope, to Building 156, Medina Annex, Lackland AFB TX.

(3) If rejected, return DD Form 1966 to USAF AFEES Liaison NCO.

(g) *Special procedures for members of reserve components.* The responsible recruiting group or the enlisting Air Force activity takes the following action when DD Form 1966, item 26, indicates the enlistee in the Regular Air Force is still a member of the Reserve.

(1) Reproduce copies of DD Form 4 and forward to:

(i) The Reserve unit shown in DD Form 1966, item 24I.

(ii) ARPC, 7300 East First Avenue, Denver, CO 80280, or to the appropriate State Adjutant General.

(2) Request copy of the discharge order.

(3) Initiate followup action to make sure the enlistee is separated from the Reserve Component.

(h) *General information on processing.*

(1) Applicants who decline or are found not qualified for enlistment:

(i) AF liaison NCO must orally inform applicants not qualified for enlistment due to failure to meet mental or physical qualifications of the reasons and give them an opportunity to ask questions.

(ii) For reservist found physically disqualified, send the complete examination results to the Reserve unit.

(iii) Do not enlist applicant who fails or refuses (after instructions) to complete DD Form 1966, item 33g. If document provides reason for belief that this enlistment may not be clearly consistent with the interest of national security, hold the enlistment in abeyance. Return the entire case to the Air Force recruiting detachment commander who forwards DD Form 1966 and any other pertinent data to the Office of Special Investigations (OSI) district servicing the detachment for investigation and development of all information having a bearing on the questionable entry. HQ AFMPC/MPCRPP determines if the enlistment is in the interest of national security and advises the detachment. If reply is favorable, the recruiting detachment attaches pertinent document(s) to the DD Form 1966 and sends applicant to AFEES for enlistment.

(2) *Transportation and subsistence:* (i) Except outside the United States, transportation and subsistence at Government expense are authorized to place of enlistment. If found not qualified or required to await further orders, AF liaison NCO arranges to return applicants at Government expense. Do not return at Government expense applicants who intentionally conceal disqualifications.

(ii) Applicants not previously disqualified may be issued meal and lodging tickets for use at AFEES contract facilities for not more than 3 days, unless extension is authorized by the detachment commander.

(iii) Make travel arrangements for enlistees to depart the enlistment activity for the appropriate Air Force base on date of enlistment, except when transportation is not available. Schedule arrival at destination between 0800 and 2200 hours.

(iv) Make routing arrangements according to AFM 75-2 or AFR 75-25. Make accommodations according to AFR 75-25.

(v) Enlistees ordered to a training center for basic training are authorized travel according to Joint Travel Regulations (JTR), volume I. Enlistees assigned to a first-duty station, other than for BMT and OTS are authorized travel and transportation allowances according to JTR, volume I. Normally lower grade airmen enlisting with less than 2 years' service will not be authorized transportation for dependents and movement of household goods at Government expense. Each individual must pay dependents' expenses. Refer to JTR where appropriate.

(i) *Assignment of accession designation numbers (ADNS).*

(1) Definition of Enlistment Options for ADN Assignments. See § 888.12(a)(15).

(2) ADNS to be assigned enlistees. See § 888.12(a)(16).

[44 FR 36945, June 25, 1979, as amended at 45 FR 58119, Sept. 2, 1980]

§ 888.7 Preparation of application for enlistment and USAF enlistment agreement documents.

(a) *Preparation of documents.* (1) This chapter prescribes preparation of the documents listed below. Only the entries prescribed herein or otherwise directed are authorized. Submit request for inclusion of other material to HQ AFMPC/MPCMR, Randolph AFB TX 78148.

(i) DD Form 1966, Application for Enlistment—Armed Forces of the United States.

(ii) AF Form 3006, Enlistment Agreement (Prior Service/Active USAFR/ANG)—United States Air Force.

(iii) AF Form 3007, Enlistment Agreement (Nonprior Service)—United States Air Force.

(iv) AF Form 3009, Change to Enlistment Agreement—Unites States Air Force.

(v) AF Form 3010, Statement of Understanding (Dependency).

(vi) AF Form 883, Privacy Act Statement—U.S. Air Force Application Records.

(vii) AF Form 3008, Supplement to USAF Enlistment Agreement (Nonprior Service).

(2) The enlistment activity prepares above forms except AF Form 883 and AF Form 3010, in four copies. Air Force forms become an annex to DD Form 4 at time of enlistment, and must be prepared in the same number of copies as the DD Form 4. Complete with typewriter (preferably), or print using ballpoint pen with black or blue-black ink. Print firmly to make sure all copies are readable.

(3) Completed forms must not contain erasures, crossouts, or changes of any nature to the applicant's entries. Redo documents requiring changes or corrections to applicant's entries, before enlistment.

(4) Recruiters must inform and counsel each applicant on the following:

(i) Applicants are required to certify that the information given is complete and accurate to the best of their knowledge and belief.

(ii) Information given is subject to investigation by the Air Force, and that the penalty for making false statements could be applicant's discharge from the Air Force under other than honorable conditions.

(iii) The meaning of each entry and statement on DD Form 1966 (except section II), AF Form 2030 and, if appli-

cable, AF Form 2031, AF Form 3006, or AF Form 3007.

(b) *DD Form 1966, Application for enlistment—Armed Forces of the United States.* Complete according to §§ 888.12(a)(28) and 888.12(a)(30).

(c) *AF Form 3006, Enlistment agreement (prior service/active USAFR/ANG)—United States Air Force.* This document outlines the terms of the enlistment options granted to PS, Active USAFR/ANG enlistees.

(1) Recruiter explains each option in section II applicable to the enlistee. Enlistees initial in the first block to show their understanding; recruiter or AFEES Liaison NCO initials in the second block to show that the entry has been explained. On the day of applicant's enlistment in the Regular Air Force, the AFEES liaison NCO reviews each applicable entry with the applicant and then initials the remaining block to show he or she has accomplished this responsibility. Particular emphasis is placed on making sure that applicant fully understands paragraphs B, H, and K.

(2) Recruiter and applicant sign at the end of section II, and their names and grades are typed or printed.

(3) Applicant completes section III on the date of enlistment in the Regular Air Force.

(4) AFEES liaison NCO completes section IV on the date of applicant's enlistment in the Regular Air Force.

(d) *AF Form 3007, Enlistment agreement (nonprior service)—United States Air Force.* This document must be completed in the following manner:

(1) Recruiter explains each option in section II applicable to the applicant.

(2) Applicant initials each block applicable showing understanding.

(3) Recruiter then initials block "K" indicating entry was explained.

(4) Liaison NCO reviews each entry with applicant on the date of initial enlistment (DEP or Regular Air Force if not in DEP). Both applicant and liaison NCO then initial block "K."

(5) Applicant reviews AF Form 3007 along with other enlistment documents and signs section II. USAF representative signs verification in section II.

(6) The liaison NCO confirms applicant's eligibility and makes final review with the applicant. Applicant and liaison NCO sign sections III and IV, respectively.

(7) Sections III and IV are completed at the time of initial enlistment, whether DEP or Regular Air Force. The completed form becomes a permanent annex to the DD Form 4, and no other entries can be made on it except to void it when a new form is prepared.

(8) For OTS selectees, the AF liaison NCO types the following in section II, paragraph M, remarks. Add continuation sheet, if required. Have applicant initial this block.

(i) For all OTS selectees: "I understand that if I am eliminated from training leading to an AF commission for other than medical or unsuitability reasons, I may elect in writing to complete my 4-year enlistment or to be immediately discharged. If I elect to remain on active duty in enlisted status, I will be entitled to the grade of ————————."

(ii) For rated OTS selectees (in addition to paragraph (a)(8)(i) of this section:) "I understand that if selected for flying training, should I become medically disqualified, or should I fail to successfully complete the Flight Screening Program, the needs of the Air Force and the recommendation of OTS will determine if I am allowed to continue in another course of training. I also understand that the needs of the Air Force will determine whether or not I am allowed to remain on active duty in a commissioned status if I fail to complete the required course."

(9) If the enlistee's status changes while in the DEP (for example: change in AFSC/AI; change from 4- to 6-year enlistment), a new AF Form 3007 is required. The AF liaison NCO prepares the new form to show enlistment options effective for applicant's active duty enlistment as follows:

(i) Prepare complete new AF Form 3007 indicating current enlistment status as of date of active duty enlistment. Enter the following statement in block M of the new form: "This form supersedes AF Form 3007, dated ———— (enter the date sections III and IV of the old form were signed, which normally will be DEP enlistment date)."

(ii) After completion of the new AF Form 3007, mark in large letters across the front of the old form—VOID—with the liaison NCO's signature and date below the entry.

(iii) Make appropriate entries in block 17 of DD Form 4 indicating the supersedure. The new form then becomes an additional annex to the DD Form 4. Both AF Form 3007 are permanent annexes and must accompany the DD Form 4 on enlistment.

(iv) If options are changed (an enlistee is rebooked) more than once while in the DEP, the only required AF Forms 3007 at time of Regular Air Force enlistment are two; the one completed for DEP and the one completed for Regular Air Force enlistment.

(e) *AF Form 3008, Supplement to USAF Enlistment Agreement (Nonprior Service).* This document will be completed and becomes an attachment to the applicant's enlistment agreement. It is completed in the same manner as the AF Form 3007.

(f) *AF Form 3009, Change to Enlishment Agreement—United States Air Force.* This document is required if, after enlistment, an individual is found to be ineligible for the GTEP AFSC in which enlisted. It is prepared by the CBPO responsible for the individual's field personnel record.

(1) Section I entries. Explain options and alternate skills available to enlistee. Enlistee selects applicable option and makes any other remarks in the space provided.

(2) Section II entries. The approving authority reviews the availability of the AFSC selected, the remarks made by the enlistee, and approves or disapproves the change requested if the new conditions are acceptable.

(3) Disposition of approved documents. Send original to HQ AFMPC/MPCDOD, Randolph AFB TX 78148, for inclusion in individual's master personnel record; file duplicate as part of AF Form 3007 in individual's field personnel record.

(g) *AF Form 3010, Statement of Understanding (Dependency).* This document is used to obtain further certification that personnel with dependents are fully aware of Air Force policies regarding Government quarters, pay and entitlements, assignment considerations, family separation, and entitlements for movement of household goods at Government expense. AF liaison NCO or recruiter prepares original and one copy.

(1) Sections I and II entries. Self-explanatory.

(2) The recruiter carefully explains each statement in sections III, IV, V, and VI to applicant. The applicant then reviews each statement and certifies his or her understanding by signing section VII. Recruiter signs in section VIII. These signatures are certification that each statement in items III, IV, V, and VI has been explained to applicant, as well as representing a witnessing signature.

(3) Items IX and X do not require completion unless applicant has no residing spouse.

(4) Applicant conducts final review before enlistment and on date of enlistment, signs in item XI.

(h) *AF Form 883, Privacy Act Statement—US Air Force Application Records.*

(1) It is desirable (not mandatory) that all applicants sign the acknowledgment of receipt of a copy of AF Form 883.

(2) The Air Force representative collecting the initial information required for enlistment or commissioning determination must provide clear instructions to make sure that applicant understands the content of AF Form 883 before signing. AF Form 883 is not a consent form. It merely indicates that the individual has been advised of information and its intended use.

(3) The signed copy is kept with application until case file is forwarded for enlistment or commissioning processing. On enlistment or commissioning, file in individual's Unit Personnel Record Group until individual's active duty status terminates, then destroy. Give a copy to the individual, if individual is being concurrently assigned to the Reserves or National Guard. AF Form 883 remains in Unit Personnel Record Group until termination of status; then is destroyed. If applicant declines or is disqualified for enlistment, the signed copy is returned to the appropriate recruiter to attach to

the applicant's personal interview record until destroyed.

[44 FR 36945, June 25, 1979, as amended at 45 FR 58120, Sept. 2, 1980; 46 FR 35642, July 10, 1981]

§ 888.8 Enlistment procedures for oversea Nonprior Service (NPS) applicants.

(a) *Procedures for enlistment.* This chapter applies only to CBPOs authorized to enlist NPS applicants overseas where a representative from HQ USAF Recruiting Service is not present. Specific approval must be obtained from USAFRS/RSOP Randolph AFB TX 78148, for each applicant. See § 888.12(a)(1) for authorized AFSC. Use criteria outlined in AFRs 39–1 and 35–1 to determine applicant's eligibility.

(b) *Processing of applicants:*

(1) Determination of Qualifications. Comply with §§ 888.2 and 888.3.

(2) Completion of Forms. Comply with §§ 888.6 and 888.7.

(3) Enlistment applications. Submit to USAFRS/RSOP and include:

(i) Letter of transmittal requesting enlistment authorization, with a statement certifying that applicant meets the mental, moral and physical prerequisite as outlined in this regulation (§ 888.12(a)(17)). If applicant answers "yes" to any questions on the DD Form 1966, item 37, 39, or 40, they must be fully explained in item 40g or 41 (use appropriate item as indicated on DD Form 1966). If, on review of these items and § 888.12(a)(4), it is found that applicant requires a waiver, include a completed DD Form 369, AF Form 2030 or 2031 (if applicable), at least three character references, and a detailed prepared statement in applicant's own handwriting explaining all offenses listed on the DD Form 1966, item 40g or 41, and circumstances involved. If applicant was on probation, a statement from his or her probation officer or a court order indicating release from probation must be included. Requests for waiver are returned to the CBPO from USAFRS/RSOP either approved or disapproved. If request for waiver is disapproved, applicant is then ineligible for enlistment in the US Air Force.

(ii) Provide current status of each applicant, that is: dependent of active duty member, retired member, US Government employee, student, or other business purposes. Include date due to return to CONUS.

(iii) Submit completed work copy of DD Form 1966 according to § 888.12(a)(28).

(iv) Original and one copy of SFs 88 and 93.

(v) AF Form 2030 and AF Form 2031, if applicable. Refer to paragraph (b)(3)(i) of this section and § 888.6(c)(3).

(c) *Enlistment options.*

(1) Enlistment in an aptitude area. Applicants who are interested in this option should show at least three aptitude areas of preference, M, A, G, or E. They should select the aptitude area in which they are best qualified.

(2) Guaranteed Training Enlistee Program. See § 888.3(d). Applicants who choose this option should list three or more AFSCs in order of preference. Applicants who want to enlist under the GTEP option should ask for an assignment which will match their ability.

(3) Six-year enlistment option. See § 888.3(d)(3). Mental Category—IV applicants are not eligible for this option.

(4) All applicants for enlistment must be told:

(i) Of a possible enlistment delay of from 2 to 6 months due to programmed training schedules.

(ii) That if they are enlisting for 871XX career field, they must be auditioned and processed according to § 888.3(d)(7).

(iii) That some technical training courses are subject to discontinuance with changes in location and course lengths. Applicants should not be promised technical school training for any AFSC. Advise GTEP applicants that they will get on-the-job training or technical school training.

(d) *Enlistment approval.* (1) USAFRS/RSOP gives enlistment authorization by letter or message to the oversea CBPO which shows the option approved and date applicant is to be at Lackland AFB TX. Applicant is contacted and a determination must be made that the enlistment desires are satisfied. At that time, CBPO and applicant must complete AF Form 3007.

Also, the CBPO must initiate an Entrance National Agency Check (ENTNAC) according to § 888.6(d)(2). Schedule enlistment and transportation to permit the enlistee to arrive at Lackland AFB TX on or before date specified in enlistment approval letter or message. Enlistees enter travel status within 24 hours of enlistment.

(2) If applicant is dissatisfied with enlistment option offered, and oversea CBPO cannot eliminate dissatisfaction, send a routine message (use mail during MINIMIZE) to USAFRS/RSOP, Randolph AFB TX, identifying authorization and requesting cancellation of enlistment reservation. Once this action has been taken, a new application must be submitted.

(e) *Reverification of enlistment eligibility before enlistment.*

(1) Base medical sections do physical rechecks within the 72 hours before enlistment for all applicants. Special emphasis must be placed on weight standards to make sure that individuals are not overweight at time of enlistment.

(2) Review and recertify enlistment forms.

(f) *Confirming enlistment.* On completion of enlistment action, CBPO sends message to USAFRS/RSOP, Randolph AFB TX, and gives enlistee's name, SSAN, date of enlistment, enlistment approval authority, and estimated arrival time at AFMPC. Send copy of DD Form 4, DD Form 1966 (pages 1 through 6), and AF Form 3007 on DOE to USAFRS/RSOP, Randolph AFB TX 78148.

§ 888.9 Minimum metal requirements (USAF).

RULE	A	B	C	D
	If enlistment category is	then minimum enlistment aptitude score required is	and mental score required is	and minimum education required is
1	NPS	composite 170 plus G–45 plus 40 in enlistment aptitude area	65–100	HS.
2				nonHS.
3			21–64	HS.
4			21–99	HS Senior (see note).
5	PS	minimum G–45 plus qualifying score for enlistment AFSC	31–100	HS.

NOTE: May enlist in the DEP, however, rule 1, 2, or 3 applies for active duty enlistments.

BEST DOCUMENT AVAILABLE

§ 888.10 Place of enlistment, NPS applicants.

RULE	A	B	C
	If applicant is	and wishes to enlist	then place of enlistment is
1	a US citizen	in the United States or Puerto Rico	the AFEES through USAF Recruiting Service.
2		in the Canal Zone or Guam (see note 1)	the CBPO Albrook AFB CZ or Anderson AFB GU.
3		in other overseas areas (see notes 1 and 2)	the CBPO when no Recruiting Service facilities are available (applicant NOT authorized travel to point of enlistment at Government expense).
4	an alien	outside the continental US	applicant is ineligible to enlist.

NOTES: 1. Process applicants according to chapter 8.
2. Applicant must be without concurrent status as a national of the country where the enlistment occurs, provided also that the enlistment does not conflict with the law of such country or with any intergovernmental agreement between the US and such country.

§ 888.11 Grade determination for NPS enlistees.

RULE	A	B
	If applicant	then grade authorized is
1	possesses the Billy Mitchell Award, or a letter from CAP-USAF/TTHE, Maxwell AFB AL, certifying successful completion of requirements for the award	E-3 (see note 1).
2	has satisfactorily completed the entire HS Junior ROTC Program (3 years or more), is a high school graduate, and presents official certificate of completion issued by the Armed Forces conducting the program	
3	was credited with over 90 days' active duty service and last separated from any component in pay grade E-2 or higher (see note 2)	E-2 (see note 1).
4	has completed 2 or more years of college ROTC at an accredited college of the United States and possesses a letter of recommendation from the professor of the appropriate US Army, US Navy, or US Air Force ROTC Unit	
5	is a Service Academy ex-cadet with over 90 days' service (see note 3)	
6	is enlisting for OTS	E-5 (see note 4).
7	is none of the above	E-1.

NOTES: 1. Documents presented after completion of basic training may not be used as a basis for changing the authorized enlistment grade except through application to the Air Force Board for Correction of Military Records.

2. Documentation must be provided in the form of DD Form 214/215 or DD Form 368.

3. Forward copy of DD Form 214 and statement from individual regarding reason for disenrollment to HQ AFMPC/MPCMAI, Randolph AFB TX 78148, for enlistment authorization.

4. Individual will be reduced to grade AB (E-1) if eliminated from OTS and elects to remain in the RegAF in enlisted status provided he or she is not entitled to a higher grade IAW this table or § 888.12(a) (7).

[45 FR 58120, Sept. 2, 1980]

§ 888.12 Miscellaneous forms and tables.

(a) The following forms and tables are part of the original document and can be obtained by writing to the Chief, Central Base Administration of the nearest Air Force installation and requesting a copy of AFR 33-3:

(1) Authorized specialties for guaranteed training enlistee program (GTEP).

(2) Conditions which make applicants ineligible to enlist.

(3) Uniform guidelist for typical offenses.

(4) Processing applicants with moral disqualifications.

BEST DOCUMENT AVAILABLE

(5) Verification of previous military service.
(6) [Reserved]
(7) Grade determination for PS enlistees (USAF).
(8) Enlistment of airmen removed from TDRL.
(9) Documents forwarded to AFEES.
(10) Separation other than to enlist in the Regular Air Force.
(11) Physical standards list reference guide.
(12) Documents forwarded to enlistment activity (USAF).
(13) Documents forwarded to HQ AFMPC/MPCDOI-2.
(14) Documents forwarded to AFMPC/DPPR, Lackland AFB TX 78236 or if PS to Servicing CBPO.
(15) Definition of enlistment options for ADN assignments.
(16) ADNs to be assigned Regular Air Force enlistees.
(17) Sample transmittal letter for oversea NPS applicants.
(18) Sample special order published by AFEES or USAFE CBPOs for discharge from DEP and enlistment in Regular Air Force.
(19) Sample special order published by AFEES for Reserve enlistment and order to EAD.
(20) Extracts of sample special orders required for enlistment in the Regular Air Force.
(21) Sample, CONUS DDA assignment.
(22) Sample, oversea assignment.
(23) Sample, Prior service, OJT retraining.
(24) Sample, Tech school assignment (for courses less than 20 weeks).
(25) Sample, Tech school assignment (for courses, 20 weeks or more).
(26) Sample Special Order, OTS.
(27) Completion of Department of Defense standardized enlistment forms.
(28) Completion of DD form 1966, Application for Enlistment—Armed Forces of the United States.
(29) Entries and coding instructions for completion of DD Form 1966, Application for Enlistment—Armed Forces of the United States.
(30) Enlistment activity and home of record state codes.
(31) Instructions for completing DD Form 4, Enlistment of Reenlistment Agreement—Armed Forces of the United States.
(32) Instructions for completing DD Form 4c enlistment or reenlistment agreement (continuation sheet).

[44 FR 36495, June 25, 1979, as amended at 45 FR 26037, Apr. 17, 1980]

PARTS 888a–888d [RESERVED]

PART 888e—DISPOSITION OF CONSCIENTIOUS OBJECTORS

Sec.
888e.0 Purpose.

Subpart A—General

888e.2 Definitions.
888e.4 Disposition of pending applications.

Subpart B—Policy

888e.6 National policy.
888e.8 Department of Defense (DOD) policy.

Subpart C—Criteria

888e.10 General.

Subpart D—Procedures

888e.12 Required information.
888e.14 Actions required of the unit commander.
888e.16 Statement (counseling concerning Veterans Administration benefits).
888e.18 Promotion of personnel who apply for conscientious objector status.
888e.20 Actions required by the servicing CBPO/CRPO.
888e.22 Appointment of investigating officer.
888e.24 Actions required of the investigating officer.
888e.26 Forwarding of application.
888e.28 Action at decision level.
888e.30 Effect of unauthorized absence of applicant.
888e.32 Status of applicant whose request is under consideration.

Subpart E—Actions After Decisions

888e.34 Disposition instructions when 1-O status is approved.
888e.36 Disposition instructions when 1-A-O status is approved.
888e.38 Statement (counseling concerning designation as conscientious objector).
888e.40 Performance of duty.
888e.42 DD Form 214.
888e.44 Character of discharge.

Sec.

888e.46 Disposition of correspondence.
888e.48 Assignment limitation.
888e.50 Notifying Selective Service regarding a member who has not completed 180 days of active duty.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: 36 FR 23209, Dec. 7, 1971, unless otherwise noted.

§ 888e.0 Purpose.

This part establishes uniform Air Force procedures governing an applicant who claims status as a conscientious objector. This part applies to all personnel of the Air Force and of its Reserve components. It is not an authority for discharge and may not be cited as such. It implements Part 75 of this title.

Subpart A—General

§ 888e.2 Definitions.

The following terms apply for this part:

(a) *Conscientious objection.* A firm, fixed, and sincere objection to participation in war in any form or the bearing of arms by reason of religious training and belief.

(1) *Class 1-O conscientious objector.* A member who, by reason of conscientious objection, sincerely objects to participation of any kind in war in any form.

(2) *Class 1-A-O conscientious objector.* A member who, by reason of conscientious objection, sincerely objects to participation as a combatant in war in any form, but whose convictions are such as to permit military service in a noncombatant status.

Unless otherwise specified, the term "conscientious objector" includes both 1-O and 1-A-O conscientious objectors.

(b) *Religious training and belief.* Belief in an external power or being or deeply held moral or ethical belief, to which all else is subordinate or upon which all else is ultimately dependent, and which has the power or force to affect moral well-being. The external power or being need not be of an orthodox deity, but may be a sincere and meaningful belief which occupies in the life of its possessor a place parallel to that filled by the God of another, or, in the case of deeply held moral or ethical beliefs, a belief held with the strength and devotion of traditional religious conviction. The term "religious training and belief" may include solely moral or ethical beliefs even though the applicant himself may not characterize these beliefs as "religious" in the traditional sense, or may expressly characterize them as not religious. The term "religious training and belief" does not include a belief which rests solely upon considerations of policy, pragmatism, expediency, or political views.

(c) *Noncombatant service or noncombatant duties (1-A-O) (used interchangeably in this part).* (1) Service in any unit of the armed forces which is unarmed at all times.

(2) Service in the medical department of any of the armed forces, wherever performed.

(3) Any other assignment the primary function of which does not require the use of arms in combat provided that such other assignment is acceptable to the individual concerned and does not require him to bear arms or to be trained in their use.

(4) Service aboard an armed ship or aircraft or in a combat zone will not be considered to be combatant duty unless the individual concerned is personally and directly involved in the operation of weapons.

(d) *Noncombatant training.* Any training which is not concerned with the study, use or handling of arms or weapons.

[36 FR 23209, Dec. 7, 1971; 37 FR 14776, July 25, 1972]

§ 888e.4 Disposition of pending applications.

Applications initiated under AFR 35-24, October 18, 1971, and dated prior to February 28, 1974, will be processed to conclusion under that regulation.

[36 FR 23209, Dec. 7, 1971, as amended at 40 FR 7912, Feb. 24, 1975]

Subpart B—Policy

§ 888e.6 National policy.

Military service is a patriotic obligation of every citizen who desires to share in the benefits and protections afforded by allegiance to the national aims, objectives, welfare, and security of the Government of the United States. The armed forces were established by Congress as an instrument to insure the attainment of the objectives through the preservation of peace and national stability in a highly competitive and changing world. Nevertheless, Congress has recognized that deep and sincerely held convictions against the use of force may place any citizen in a dilemma between conscience and patriotic obligation, and has therefore provided a means whereby these citizens may be excused from their military obligation by receiving status as a conscientious objector.

§ 888e.8 Department of Defense (DOD) policy.

Consistent with the national policy explained in § 888e.6, Air Force personnel who qualify under this part as bona fide conscientious objectors will be recognized to the extent practicable and equitable. Objection to a particular war will not be recognized as grounds for conscientious objection. This policy will be executed subject to the following:

(a) Administrative discharge prior to the completion of an obligated term of service is discretionary with the Secretary of the Air Force, based on a judgment of the facts and circumstances in the case. However, insofar as may be consistent with the effectiveness and efficiency of the Air Force, a request for classification as a conscientious objector and relief from or restriction of military duties in consequence thereof will be approved to the extent practicable and equitable within the following limitations:

(1) Except as provided in paragraph (a)(2) of this section, no member of the Air Force who possessed conscientious objection beliefs before entering military service is eligible for classification as a conscientious objector if:

(i) Such beliefs satisfied the requirements for classification as a conscientious objector pursuant to section 6(j) of the Universal Military Training and Service Act, as amended (50 U.S.C. App 456(j)) and other provisions of law, and he failed to request classification as a conscientious objector by the Selective Service System (SSS); or

(ii) He requested classification as a conscientious objector before entering military service, and such request was denied on the merits by the SSS, and his request for classification as a conscientious objector is based upon essentially the same grounds or supported by essentially the same evidence, as the request which was denied by the SSS.

(2) Nothing contained in this part renders ineligible for classification as a conscientious objector a member of the Air Force who possessed conscientious objector beliefs before entering military service if:

(i) Such beliefs crystalized after receipt of an induction notice and;

(ii) He could not request classification as a conscientious objector by the SSS because of SSS regulations prohibiting the submission of such requests after receipt of induction notice.

(b) Because of the personal and subjective nature of conscientious objection, the existence, honesty, and sincerity of asserted conscientious objection beliefs cannot be routinely ascertained by applying inflexible objective standards and measurements on an "across-the-board" basis. Requests for discharge or assignment to noncombatant training or service based on conscientious objection will, therefore, be handled on an individual basis with final determination made at HQ USAF (airmen) or the Secretary of the Air Force (officers) in accordance with the facts and circumstances in the particular case and the policy and procedures set forth in this part.

[36 FR 23209, Dec. 7, 1971, as amended at 37 FR 14776, July 25, 1972; 41 FR 31532, July 29, 1976]

Subpart C—Criteria

§ 888e.10 General.

The criteria set forth in this section provide policy and guidance in considering applications for separation or for assignment to noncombatant training and service based on conscientious objection.

(a) Consistent with the national policy to recognize the claims of bona fide conscientious objectors in the military service, an application for classification as a conscientious objector may be approved (subject to the limitations of paragraph (a) of § 888e.8) for any individual.

(1) Who is conscientiously opposed to participation in war in any form;

(2) Whose opposition is founded on religious training and belief; and

(3) Whose position is sincere and deeply held.

(b) War in any form: The clause "war in any form" should be interpreted in the following manner:

(1) An individual who desires to choose the war in which he will participate is not a conscientious objector under the law. His objection must be to all wars rather than a specific war;

(2) A belief in a theocratic or spiritual war between the powers of good and evil does not constitute a willingness to participate in "war" within the meaning of this part.

(c) Religious training and belief:

(1) In order to find that an applicant's moral and ethical beliefs are against participation in war in any form and are held with the strength of traditional religious convictions, the applicant must show that these moral and ethical convictions, once acquired, have directed his life in the way traditional religious convictions of equal strength, depth and duration have directed the lives of those whose beliefs are clearly found in traditional religious convictions. In other words, the belief upon which conscientious objection is based must be the primary controlling force in the applicant's life.

(2) A primary factor to be considered is the sincerity with which the belief is held. Great care must be exercised in seeking to determine whether asserted beliefs are honestly and genuinely held. Sincerity is determined by an impartial evaluation of the applicant's thinking and living in its totality, past and present. Care must be exercised in determining the integrity of belief and the consistency of application. Information presented by the claimant should be sufficient to convince that the claimant's personal history reveals views and actions strong enough to demonstrate that expediency or avoidance of military service is not the basis of his claim.

(i) Therefore, in evaluating applications the conduct of applicants, in particular their outward manifestation of the beliefs asserted, will be carefully examined and given substantial weight.

(ii) Relevant factors that should be considered in determining an applicant's claim of conscientious objection include training in the home and church; general demeanor and pattern of conduct; participation in religious activities; whether ethical or moral convictions were gained through training, study, contemplation, or other activity comparable in rigor and dedication to the processes by which traditional religious convictions are formulated; credibility of the applicant, and credibility of persons supporting the claim.

(iii) Particular care must be exercised not to deny the existence of bona fide beliefs simply because those beliefs are incompatible with one's own.

(*a*) Church membership or adherence to particular theological tenets are not required to warrant separation or assignment to noncombatant training and service for conscientious objectors.

(*b*) Mere affiliation with a church or other group which advocates conscientious objection as a tenet of its creed is not necessarily determinative of an applicant's position or belief.

(*c*) Conversely, affiliation with a church or group which does not teach conscientious objection does not necessarily rule out adherence to conscientious objection beliefs in any given case.

(*d*) Where an applicant is or has been a member of a church, religious organization, or religious sect, and where his claim of conscientious objection is related to such membership, in-

quiry may properly be made as to the fact of membership, and the teaching of the church, religious organization, or religious sect, as well as the applicant's religious activity. However, the fact that the applicant may disagree with, or not subscribe to, some of the tenets of his church does not necessarily discredit his claim. The personal convictions of each individual will be controlling so long as they derive from his moral, ethical, or religious beliefs.

(e) Moreover, an applicant who is otherwise eligible for conscientious objector status may not be denied that status simply because his conscientious objection influences his view concerning the nation's domestic or foreign policies. The task is to decide whether the beliefs professed are sincerely held, and whether they govern the claimant's actions both in word and deed.

(d) The burden of establishing a claim of conscientious objection as a ground for separation or assignment to noncombatant training and service is on the applicant. To this end, he must establish by clear and convincing evidence:

(1) That the nature or basis of his claim comes within the definition of and criteria prescribed in this part for conscientious objection, and

(2) That his belief in connection therewith is honest, sincere and deeply held.

The claimant has the burden of determining and setting forth the exact nature of his request; that is, whether for separation based on conscientious objection (1-O) or for assignment to noncombatant training and service based on conscientious objection (1-A-O).

(e) An applicant claiming 1-O status will not be granted 1-A-O status as a compromise.

(f) Persons who were classified 1-A-O by Selective Service prior to induction will upon induction be transferred to a training center, or station, for recruit training and will be subject to noncombatant service and training. They will be required to sign and date a statement as set forth in § 888e.38. Thereafter, upon completion of recruit training, they will be assigned to noncombatant duty. They may be transferred to the medical corps, or a medical department or unit for further training, provided they meet the requirements therefor. Such persons when assigned to medical units will not be allowed to avoid the important or hazardous duties which are part of the responsibility of all members of the medical organization. Any person who does not meet the requirements for this training, who fails to complete the prescribed course of instruction, or who otherwise cannot be assigned to this duty will be assigned to other noncombatant duties.

NOTE: Because the Air Force does not normally induct members claiming conscientious objector status, this DOD policy is for information only.

(g) Commanders are authorized to return to an applicant, without action, any second or subsequent application that is based upon essentially the same grounds, or supported by essentially the same evidence, as a previous application disapproved by the Secretary of the Air Force or HQ USAF.

(h) The provisions of this part will not be used to effect the administrative separation of individuals who do not qualify as conscientious objectors, or in lieu of administrative separation procedures such as those provided for unsuitability or unfitness or as otherwise set forth in other Air Force directives. Individuals determined not qualified for conscientious objector status, the separation of whom would otherwise appear to be in the best interest of the Air Force, should be considered for administrative separation under the provisions of other applicable Air Force directives. Under no circumstances will administrative separation of these individuals be effected pursuant to this part.

(i) Nothing in this part prevents the administrative elimination, pursuant to law and regulations of the Air Force of any officer whose classification as a 1-A-O conscientious objector results in substandard performance of duty or other cause for elimination.

Subpart D—Procedures

§ 888e.12 Required information.

A member of the Air Force who seeks either separation or assignment to noncombatant duties by reason of conscientious objection will submit an application therefor through his or her unit commander to the CBPO Special Actions unit. Members of the Air National Guard of the United States (ANGUS) not on extended active duty (EAD) will submit their applications to their immediate commander. Members of the US Air Force Reserve (USAFR) not on EAD will submit their applications to their immediate commander who will request assistance of the CRPO/CBPO nearest member's home address. The applicant will indicate whether he or she is seeking a discharge or assignment to noncombatant duties and will include the following items:

(a) The personal information required by § 888e.12.

(b) Any other items which the applicant desires to submit in support of his or her case.

(c) Applicants for 1-A-0 status will not be processed unless accompanied by a voluntary request for separation in accordance with AFR 36-12 (officers), or AFM 39-10 (airmen). Non-EAD members will prepare their requests for voluntary separation in accordance with AFR 35-41 (USAFR officers and airmen), ANGR 36-05 (ANGUS officers), or ANGR 39-10 (ANGUS airmen). Such requests by the applicant will be submitted by letter in the format prescribed in § 888e.38. The request will be signed and dated by the applicant and made a part of the application prior to forwarding to the commander exercising special court-martial jurisdiction.

(d) Application for discharge will be submitted under AFR 35-41, AFR 36-12, AFM 39-10, ANGR 36-05, or ANGR 39-10, as appropriate. Applications for discharge or noncombatant duty will be prepared in accordance with the applicable directive cited above with the additional data required by AFR 35-24 attached or indorsed. Applications will be submitted to the unit commander in a sufficient number of copies so that two copies can be forwarded o AFMPC/DPMAKO (officers), AFMPC/DPMAKE (airmen), Randolph AFB, Texas 78148.

NOTE: Members desiring to file an application under this directive, who have departed their duty station for PCS reassignment, are required to submit their application at their next duty station.

[41 FR 31532, July 29, 1976]

§ 888e.14 Actions required of the unit commander.

Prior to processing the application the unit commander will:

(a) Advise the applicant of the specific provisions of section 3103 of title 38, United States Code, regarding the possible effects of discharge as a conscientious objector who refuses to perform military duty or refused to wear the uniform or otherwise to comply with lawful orders of competent military authority, and

(b) Have the applicant execute the statement required by § 888e.16 and forward it with the case to AFMPC/DPMAKO (officers) or AFMPC/DPMAKE (airmen), Randolph Air Force Base, Texas 78148.

NOTE: In cases of non-EAD applicants, ANGUS members will be supported by their CBPO. USAFR members will be assisted by the CRPO/CBPO nearest to the applicant. The assisting CRPO/CBPO (a CRPO whenever possible) will accomplish the actions in this section and § 888e.20.

[36 FR 23209, Dec. 7, 1971, as amended at 37 FR 14777, July 25, 1972; 40 FR 7913, Feb. 24, 1975; 41 FR 31533, July 29, 1976]

§ 888e.16 Statement (counseling concerning Veterans Administration benefits).

I have been advised of the provisions of 38 U.S.C. 3103 concerning possible nonentitlement to benefits administered by the Veterans Administration due to discharge from the military service as a conscientious objector under certain conditions. I understand that a discharge as a conscientious objector, who refused to perform military duty or otherwise to comply with lawful orders of competent military authority, shall bar all rights, based upon the period of service from which discharged, under any laws administered by the Veterans Administration

except my legal entitlement (if any) to any war risk, government (converted) or National Service Life Insurance.

(Date) _____
(Signature of Member) _____

_____
(Typed name, SSAN, grade, USAF)

The preceding statement of (member's name) was signed by him after he had been counseled by me.
(Date) _____

_____
(Signature of officer who counseled member)

_____
(Typed name, SSAN, grade, USAF)

§ 888e.18 Promotion of personnel who apply for conscientious objector status.

Upon initiation of action under this part, personnel awaiting promotion to all grades, both officers and airmen, will have promotion withheld in accordance with current procedures. The rationale for withholding promotion is that, by application, the individual places himself or herself in a position where his or her potential for future service is questionable. Withholding will be in effect until a final determination can be made in individual cases. This policy complements the promotion philosophy that promotions are not awarded for past performance but for anticipated future service.

[36 FR 23209, Dec. 7, 1971, as amended at 41 FR 31533, July 29, 1976]

§ 888e.20 Actions required by the servicing CBPO/CRPO.

The servicing CBPO/CRPO will:

(a) Screen the applicant's Field Record Group and contact other appropriate offices for any information which may be supportive of or cast doubt upon the member's sincerity. This information will immediately be forwarded to the servicing CRPO/CBPO for inclusion in the applicant's file and for consideration by the investigating officer.

(b) Schedule the applicant for interviews with the chaplain and psychiatrist. The applicant will be personally interviewed by a chaplain who will submit a written opinion as to the nature and basis of the applicant's claim and as to the applicant's sincerity and depth of conviction. The chaplain's report must include the reasons for his conclusions but will not make any recommendations for approval or disapproval of the application. The applicant will also be interviewed by a psychiatrist who will submit a written report of psychiatric evaluation. This evaluation will also indicate the presence or absence of any psychiatric disorder which would warrant treatment or disposition through medical channels, or any character or personality disorder which would warrant appropriate administrative action. The report will not make any recommendations for approval or disapproval of the application. A medical officer may make this evaluation if a psychiatrist is not reasonably available.

(c) The information developed in the screening, the chaplain's opinion, and the psychiatric evaluation will become part of the case file furnished to the investigating officer. If the applicant refuses to participate or is uncooperative or unresponsive in the course of the interview, this fact will be included in the comments given by the chaplain and psychiatrist or medical officer.

[40 FR 7913, Feb. 24, 1975, as amended at 41 FR 31533, July 29, 1976]

§ 888e.22 Appointment of investigating officer.

(a) Commanders specified below will appoint a judge advocate, if reasonably available, to investigate the applicant's claim. If the applicant is a commissioned officer, the investigating officer must be senior in both temporary and permanent grades.

(1) *EAD Member.* The commander exercising special court-martial jurisdiction over the applicant.

(2) *USAFR Non-EAD Member.* The commander exercising special court-martial jurisdiction over the installation processing the application.

(3) *ANG Non-EAD Member.* The ANG Wing or Group Commander exercising control over the CBPO which is responsible for processing the application.

(b) If a judge advocate is not reasonably available, an officer in the grade

90-112 O—82——34

of major or higher will be appointed and a statement will be made in the report that a judge advocate was not reasonably available. The officer so appointed will not be in the chain of command of the applicant.

(c) USAFR JAG mobilization augmentees and reinforcement designees may be used as investigating officers for applications submitted by non-EAD USAFR personnel and processed through ARPC.

[41 FR 31533, July 29, 1976]

§ 888e.24 Actions required of the investigating officer.

Upon appointment he or she will:

(a) Review this part.

(b) Expeditiously conduct a hearing on the case. The purpose of the hearing is to afford the applicant an opportunity to present any evidence he or she desires in support of his or her application; to enable the investigating officer to ascertain and assemble all relevant facts; to create a comprehensive record; and to facilitate an informed recommendation by the investigating officer and an informed decision on the merits by higher authority. In this regard, any failure or refusal of the applicant to submit to questioning under oath or affirmation before the investigating officer may be considered by the officer making his recommendation and evaluation of the applicant's claim. If the applicant fails to appear at the hearing without good cause, the investigating officer may proceed in his absence and the applicant will be deemed to have waived his appearance.

(1) If the applicant desires, he will be entitled to be represented by counsel, at his own expense, who will be permitted to be present at the hearing, assist the applicant in the presentation of his case, and examine all items in the file.

(2) The hearing will be informal in character and will not be governed by the rules of evidence employed by courts-martial except that all oral testimony presented must be under oath or affirmation. Any relevant evidence may be received. Statements obtained from persons not present at the hearing need not be made under oath or affirmation. The hearing is not an adversary proceeding.

(3) The applicant may submit any additional evidence that he desires (including sworn or unsworn statements) and present any witnesses in his own behalf, but he will be responsible for securing their attendance. The commander exercising special court-martial jurisdiction will render all reasonable assistance in making available military members of his command requested by the applicant as witnesses. Further, the applicant will be permitted to question any other witnesses who appear and to examine all items in the file.

(4) A verbatim record of the hearing is not required. If the applicant desires such a record and agrees to provide it at his own expense, he may do so. If he elects to provide such a record, he must make a copy thereof available to the investigating officer, at no expense to the government, at the conclusion of the hearing. In the absence of a verbatim record, the investigating officer will summarize the testimony of witnesses and permit the applicant or his counsel to examine the summaries and note for the record their differences with the investigating officer's summary. Copies of statements and other documents received in evidence will be made a part of the hearing record.

(c) Expeditiously prepare a report of his investigation. At the conclusion of the investigation, the investigating officer will prepare a written report which will contain the following:

(1) A statement as to the date on which the hearing was conducted, whether the applicant appeared, whether he was accompanied by counsel, and, if so, the latter's identity, and whether the nature and purpose of the hearing were explained to the applicant and understood by him.

(2) Any documents, statements, and other material received during the investigation.

(3) Summaries of the testimony of the witnesses presented (or a verbatim record of the testimony if such record was made).

(4) A statement of the investigating officer's conclusions as to the underlying basis of the applicant's conscientious objection and the sincerity of the

applicant's beliefs, including his reasons for such conclusions.

(5) Subject to paragraph 5e, the investigating officer's recommendations for disposition of the case, including his reasons therefor. The actions recommended will be limited to the following:

(i) Denial of any classification as a conscientious objector; or

(ii) Classification as 1-A-O conscientious objector; or,

(iii) Classification as 1-O conscientious objector.

(6) The investigating officer's report, along with the individual's application, all interviews with chaplains or doctors, evidence received as a result of the investigating officer's hearing, and any other items submitted by the applicant in support of his case will constitute the record. The investigating officer's conclusion and recommended disposition will be based on the entire record and not merely on the evidence produced at the hearings. A copy of the record will be furnished to the applicant at the time it is forwarded to the servicing CBPO/DPMQS, and the applicant will be informed that he has the right to submit a rebuttal to the report within 15 days after receipt of his copy of the record. The case file will include a statement by the investigative officer, or a copy of a receipt from the applicant, showing the date on which the copy of the report was delivered to the applicant.

[41 FR 31533, July 29, 1976]

§ 888e.26 Forwarding of application.

Fifteen days after the date the applicant was provided his copy of the record (§ 888e.24(c)) or upon receipt of his rebuttal, whichever is sooner, the CRPO/CBPO (DPMQS) will promptly forward the record case to the local staff judge advocate (SJA) for review for procedural compliance with the part. If necessary, the SJA may return the case through the servicing CRPO/CBPO to the investigating officer for further investigation. When the record is complete, the SJA will forward it to the commander who appointed the investigating officer. The appointing commander will forward the case, including his recommended disposition and reasoning, direct to the applicant's MAJCOM of assignment. In cases of non-EAD ANGUS applicants, the servicing CRPO/CBPO will promptly forward the case through command channels to NGB/DPM, Washington, D.C. 20310. In cases of non-EAD USAFR applicants, the servicing CRPO/CBPO will promptly forward the case to the MAJCOM or SOA to which the applicant is assigned. After a review for legal sufficiency by the SJA, the MAJCOM/SOA of assignment will forward the case, including their recommendations and reasons, in at least two copies, direct to AFMPC/DPMAKE (airmen) or AFMPC/DPMAKO (officers), Randolph Air Force Base, Texas 78148.

[40 FR 7913, Feb. 24, 1975, as amended at 41 FR 31534, July 29, 1976]

§ 888e.28 Action at decision level.

A final decision based on the entire record will be made by the Secretary of the Air Force (officers) and HQ USAF (airmen). Any additional information other than the official service record of the applicant considered by the Secretary of the Air Force or HQ USAF which is adverse to the applicant, and which the applicant has not had an opportunity to comment upon or refute, will be made a part of the record and the applicant will be given a 15-day opportunity from date of receipt of the additional information to comment upon or refute the material before a final decision is made. The reasons for an adverse decision will be made a part of the record and will be provided to the individual.

§ 888e.30 Effect of unauthorized absence of applicant.

Processing of applications need not be abated by the unauthorized absence of the applicant subsequent to the initiation of the application, or by the institution of disciplinary action or administrative separation proceedings against him. However, an applicant whose request for classification as a conscientious objector has been approved will not be discharged until all disciplinary action has been resolved.

§ 888e.32 Status of applicant whose request is under consideration.

To the extent practicable under the circumstances, during the period applications are being processed and until a decision is made by the Secretary of the Air Force or HQ USAF, every effort will be made to assign applicants to duties within the command to which they are assigned which will conflict as little as possible with their asserted beliefs. The applicant will be required to comply with active duty or transfer orders in effect at the time of his application or subsequently issued and received. During the period applications are being processed, applicants will be expected to conform to the normal requirements of military service and to perform satisfactorily such duties to which they are assigned. Applicants may be disciplined for violations of the Uniform Code of Military Justice while awaiting action on their applications. For applicants on flying status, see AFM 35-13, Flying Status, Aeronautical Ratings, Designations and Parachute Jump Status, for appropriate suspension action.

[36 FR 23209, Dec. 7, 1971, as amended at 37 FR 14777, July 25, 1972; 40 FR 7913, Feb. 24, 1975]

Subpart E—Actions After Decisions

§ 888e.34 Disposition instructions when 1-O status is approved.

Applicants requesting discharge, who are determined to be 1-O conscientious objectors, will be discharged for the convenience of the Government. The type of discharge issued will be governed by the applicant's general military record and the pertinent provisions of AFM 35-41 (USAFR members), AFR 36-12 (officers), AFM 39-10 (airmen), ANGR 36-05 (ANGUS officers), or ANGR 39-10 (ANGUS airmen). The Director of the Selective Service System will be promptly notified of the discharge of those who have served less than 180 days in the armed forces. Pending separation, the applicant will continue to be assigned duties providing the minimum practicable conflict with his professed beliefs and will be expected to conform to the normal requirements of military service and to perform satisfactorily such duties to which he is assigned. Applicants may be disciplined for violations under the Uniform Code of Military Justice while awaiting discharge.

[41 FR 31534, July 29, 1976]

§ 888e.36 Disposition instructions when 1-A-O status is approved.

Applicants requesting assignment to noncombatant duties who are determined to be Class 1-A-O conscientious objectors by the Air Force will be:

(a) Assigned to noncombatant duty as stated in § 888e.2, or

(b) Discharged from military service at the discretion of AFMPC (airmen) or SAF (officers). Each applicant will be required to execute the statement as shown in § 888e.38.

[36 FR 23209, Dec. 7, 1971, as amended at 37 FR 14777, July 25, 1972]

§ 888e.38 Statement (counseling concerning designation as conscientious objector).

I have been counseled concerning designation as a conscientious objector. Based on my religious training and belief, I consider myself to be a conscientious objector within the meaning of the statute and regulations governing conscientious objectors and am conscientiously opposed to participation in combatant training and service. I request assignment to noncombatant duties for the remainder of my term of service. I fully understand that on expiration of my current term of service, I may not be eligible for voluntary enlistment, reenlistment, extension or amendment of current enlistment, or active service in the armed forces by reason of my 1-A-O classification.

If I am determined to be a conscientious objector (1-A-O status) and if a further determination is made by HQ USAF that I cannot be effectively utilized as a noncombatant, I am requesting that (I be discharged for the convenience of the Government in accordance with AFM 39-10 (airmen)) (my resignation be accepted in accordance with AFR 36-12 (officer)).

(Date) _____

(Signature of Member) _____

_____

(Typed name, SSAN, grade, USAF)

The preceding statement of (member's name) was signed by him after he had been counseled by me.

(Date) _____

(Signature of officer who counseled member)

(Type name, SSAN, Grade, USAF)

[36 FR 23209, Dec. 7, 1971, as amended at 40 FR 7913, Feb. 24, 1975; 41 FR 31534, July 29, 1976]

§ 888e.40 Performance of duty.

Class 1-A-O conscientious objectors assigned to noncombatant duties, and persons assigned to normal military duties by reason of disapproval of their applications, will be expected to conform to the normal requirements of military service and to perform satisfactorily such duties to which they are assigned. Violations of the Uniform Code of Military Justice by these members will be treated as in any other situation.

[41 FR 31534, July 29, 1976]

§ 888e.42 DD Form 214.

If a member is discharged from EAD as a conscientious objector, DD Form 214, Report of Separation from Active Duty, items 9c and 10, will be completed as indicated in paragraphs (a) and (b) of this section.

(a) Item 9c.

(1) Officers—AFR 36-12.

(2) Airmen—AFM 39-10.

(b) Item 10. Enter Code "2" for airmen according to AFR 35-6.

[40 FR 7913, Feb. 24, 1975, as amended at 41 FR 31534, July 29, 1976]

§ 888e.44 Character of discharge.

If discharge is directed, the character of discharge is determined by the member's military record; the standards established in AFM 35-41, ANGR 36-05, ANGR 39-10, AFR 36-12, or AFM 39-10, as appropriate; and the procedural guidelines in this part.

[36 FR 23209, Dec. 7, 1971, as amended at 40 FR 7914, Feb. 24, 1975; 41 FR 31534, July 29, 1976]

§ 888e.46 Disposition of correspondence.

After final approval action is taken on an application, the CBPO/DPMMR will include one copy of the approved correspondence resulting in discharge in the Field Record Group. The Field Record Group will then be sent to AFMPC/DPMDRR, Randolph Air Force Base, Tex. 78148, according to AFM 35-44. One copy of the application, including statement of member resulting in reassignment to noncombatant duties, and one copy of all disapproved applications will be filed in the Field Record Group in accordance with AFM 35-44. All other copies will be disposed of in accordance with AFM 12-50.

[37 FR 14777, July 25, 1972, as amended at 41 FR 31534, July 29, 1976]

§ 888e.48 Assignment limitation.

CBPO/DPMQS will provide CBPO/DPMCA with a copy of the correspondence approving the individual for noncombatant services as a basis for updating the assignment limitation data in the APDS.

[36 FR 23209, Dec. 7, 1971, as amended at 37 FR 14777, July 25, 1972; 41 FR 31534, July 29, 1976]

§ 888e.50 Notifying Selective Service regarding a member who has not completed 180 days of active duty.

Bona fide conscientious objectors (1-O classification or 1-A-O, but discharge is directed) who are approved for discharge with less than 180 days service, will be discharged for the convenience of the Government by reason of conscientious objection early enough to permit the remaining service in the civilian work program administered by Selective Service. In such cases, the CBPO/DPMQS will notify the SS promptly of the date of discharge from military service and of the fact that the individual has not completed 180 days of active duty. The notification will be prepared for the immediate commander's signature.

[36 FR 23209, Dec. 7, 1971, as amended at 37 FR 14777, July 25, 1972; 40 FR 7914, Feb. 24, 1975]

PART 888f [RESERVED]

PART 888g—ORGANIZATIONAL AND REPRESENTATIONAL ACTIVITIES OF MILITARY PERSONNEL

Sec.

888g.1 Purpose.

888g.2 Applicability.

Sec.

888g.3 Policy on unionization of military personnel.
888g.4 Explanation of terms.
888g.5 Activities prohibited in the Air Force.
888g.6 Permissible activities.
888g.7 Responsibilities.
888g.8 Situational guidance.
888g.9 Military union incident, RCS HAF-DPX(AR) 7701.
888g.10 Guidelines for making determinations.
888g.11 Air Force installations where provisions of this part have been invoked by the Secretary of the Air Force. [Reserved]
888g.12 Organizations determined by the Secretary of the Air Force to present a clear danger to Air Force discipline, loyalty or obedience to lawful orders. [Reserved]
888g.13 Reporting format.
888g.14 Situational guidance for commanders.

AUTHORITY: Sec. 8012, 70A Stat. 488 (10 U.S.C. 8012).

SOURCE: 43 FR 4605, Feb. 3, 1978, unless otherwise noted.

§ 888g.1 Purpose.

This part establishes policies and guidelines for dealing with individuals and organizations whose objective is to organize or represent military members of the Air Force for the purpose of negotiation or collective bargaining over terms or conditions of military service, prohibits Air Force commanders and supervisors from engaging in negotiation or collective bargaining, and prohibits military personnel from engaging in strikes and other concerted activities, on-base recruitment, and active membership in organizations which would engage in such activities.

§ 888g.2 Applicability.

(a) This part does not modify or diminish the existing authority of commanders to control access to, or maintain good order and discipline on, military installations; nor does it change or lessen the obligations of commanders and supervisors pursuant to Executive Order 11491 with respect to organizations representing Department of the Air Force civilian employees.

(b) This part applies to all active duty military personnel, members of Reserve components on inactive duty training, civilian employees, and to individuals and groups entering, using or seeking to enter or use Air Force installations. Violations of the specific prohibitions of this part by military members of the Air Force may result in prosecution under the UCMJ or administrative action.

(c) This part implements DOD Directive 1354.1, Relationships With Organizations Which Seek to Represent Members of the Armed Forces in Negotiation or Collective Bargaining, October 6, 1977.

§ 888g.3 Policy on unionization of military personnel.

(a) The mission of the Air Force is to safeguard the security of the United States. The Air Force must be ready to execute its responsibilities in supporting that role with absolute reliability and immediate responsiveness. Essential to maintaining this state of readiness are the military requirements of control, discipline, and prompt obedience to lawful orders of command. The chain of command must remain unencumbered by outside influence or obstruction of authority.

(b) The Air Force recognizes the important contributions which organized labor has made to the social and economic development of our nation. Civilian labor unions are an integral part of everyday Air Force activities. However, the traditional union functions of collective or concerted actions would impair the control of Air Force commanders over military personnel so as to threaten the security of the United States. Air Force commanders could not maintain readiness, be responsive to contingency plans or accomplish their missions if required to bargain over their orders, consult over decisions, or be subject to collective actions of any sort.

(c) Any individual or organization which seeks to intrude on the relationship between commanders and military members of the Air Force in matters relating to mission accomplishment or terms or conditions of military service, presents a clear danger to discipline, loyalty, and obedience to

lawful orders of command and such interference will not be permitted.

§ 888g.4 Explanation of terms.

(a) "Aid and abet" means to be present during the commission of any act prohibited by this regulation and to assist, command, counsel or otherwise encourage such an act.

(b) "Air Force installation" includes bases, stations, sites, aircraft and other facilities where Air Force personnel are assigned.

(c) "Civilian employee" includes Executive Schedule, Scientific and Technical, General Schedule, Wage Board, and Nonappropriated Fund employees of the Air Force.

(d) "Collective job-related action" means any activity by two or more persons that is intended to and does obstruct or interfere with the performance of a military duty assignment.

(e) "Conspire" means to join or agree with one or more persons to commit any act prohibited by this part.

(f) "Installation commander" means the senior host wing or equivalent commander. Major commanders may designate the commander of a higher level organization to enforce the provisions of this part when two or more organizations of the host command are located at the same installation.

(g) "Military member" includes Air Force personnel on active duty or inactive duty training and members of the Air National Guard of the United States and United States Air Force Reserve while serving in a military capacity.

(h) "Negotiation or collective bargaining" is a process whereby a commander or supervisor, military or civilian, acting on behalf of the United States, engages in discussions with a military member or members of the Air Force (purporting to represent such members), or with an individual group, organization, or association purporting to represent such members, for the purpose of resolving bilaterally, terms or conditions of military service.

(i) "Solicit" means to use words or any other means to request, urge, advise, counsel, tempt or command another to commit any act prohibited by this part.

(j) "Terms or conditions of military service" means terms or conditions of military compensation or duty including but not limited to wages, rates of pay, duty hours, assignments, grievances, or disputes.

§ 888g.5 Activities prohibited in the Air Force.

(a) *Negotiation or Collective Bargaining.* Air Force commanders and supervisors will not engage in negotiation or collective bargaining.

(b) *Strikes and Other Concerted Activities.* Military members of the Air Force will not:

(1) Engage in any strike, slowdown, work stoppage, or other collective job-related action with respect to terms or conditions of military service, or

(2) Picket for the purpose of causing or coercing other military members of the Air Force to engage in a strike, slowdown, work stoppage, or other collective job-related action related to terms or conditions of military service.

(c) *Recruitment Efforts:*

(1) No person will conduct or attempt to conduct a demonstration, meeting, protest, march, or engage in or attempt to engage in speechmaking, picketing, leafleting, or other similar activity on an Air Force installation for the purpose of forming, recruiting military members for, or soliciting money or services for any organization that:

(i) Engages or is substantially likely to engage in any activity prohibited by this part; or

(ii) Proposes or holds itself out as proposing to engage in negotiation or collective bargaining on behalf of military members of the Air Force; or

(iii) Proposes or holds itself out as proposing to represent military members of the Air Force to the military chain of command with respect to the terms or conditions of military service when such representation would interfere with the military chain of command; or

(iv) Solicits or aids and abets a violation of this regulation by a military member of the Air Force.

(2) No person will engage in any activity, including but not limited to individual contacts or the posting for public display of any poster, handbill or other writing, on any part of an Air Force installation if the activity or the material displayed constitutes or includes an invitation to collectively engage in an activity prohibited by this part.

(d) *Membership in Certain Organizations.* Military members of the Air Force will not become or remain members of an organization under the following conditions:

(1) After the Secretary of the Air Force determines in accordance with § 888g.10 that the organization presents a clear danger to discipline, loyalty or obedience to lawful orders; and

(2) The military members know the Secretary has made such determination, and

(3) The military members intend to promote the conduct upon which the determination is based, and

(4) The military members actively participate in activities of the organization.

(e) *General Prohibitions.* Military members of the Air Force will not attempt to engage in, or solicit the commission of, or conspire with, or aid and abet any person or organization in the commission of any act prohibited in this part.

§ 888g.6 Permissible activities.

This part does not prevent:

(a) Military members from presenting complaints or grievances over terms or conditions of military service through established military channels.

(b) Commanders or supervisors from giving due consideration to the views of military members presented individually or as a result of participation on command-sponsored or authorized advisory councils, committees, or organizations for the purpose of improving conditions or communications at the Air Force installation involved.

(c) Military members from petitioning Congress or communicating with any member of Congress.

(d) Military members from being represented by qualified counsel, whether or not retained by an organization on his or her behalf, in any judicial or administrative proceeding with respect to which there is a right to counsel of choice.

(e) Military members from joining or being a member of any organization which engages in representational activities with respect to terms or conditions of off-duty employment.

(f) Civilian employees from joining or being a member of any organization that engages in representational activities with respect to terms or conditions of civilian employment.

§ 888g.7 Responsibilities.

(a) The Secretary of the Air Force is responsible for making determinations as required by §§ 888g.5(c)(2) and 888g.5(d)(1), and for the selective application of such determinations to particular Air Force installations on a case-by-case basis. Guidelines for making these determinations are contained in § 888g.10. Section 888g.11 lists those Air Force installations where selective application has been invoked by the Secretary of the Air Force. Section 888g.12 lists those organizations which have been determined to present a clear danger to discipline, loyalty, or obedience to lawful orders of command.

(b) Installation commanders:

(1) Are responsible for enforcement of § 888g.5 (a), (b), (c)(1), and (e), which automatically apply to all personnel and § 888g.5 (c)(2) and (d)(1) after a determination is made by the Secretary of the Air Force.

(2) Will gather the facts and data needed by the Secretary of the Air Force to make determinations required by this part. The limitations on obtaining information on persons or organizations not affiliated with the Department of Defense imposed by Part 954 of this chapter will be strictly complied with.

(3) Will report through intermediate commanders to their major commander, with information to HQ USAF/DPXX/JACM, Pentagon, Washington, D.C., all incidents concerning requests for permission or attempts to engage in activities prohibited by this part. The checklist/form at § 888g.13 will be utilized for submitting these reports.

(4) Will post notices of the determinations made by the Secretary of the Air Force affecting their installation which clearly state:

(i) That the identified organization poses a clear danger to discipline, loyalty, or obedience to lawful orders, including the reason upon which the determination is based, and

(ii) That knowing, active membership in that organization by a military member with the intent to promote such prohibited conduct is not permitted.

(c) Intermediate commanders will resolve incidents or provide guidance to installation commanders as appropriate, or request assistance or additional guidance from HQ USAF/DPXX/JACM. HQ USAF/DPXX/JACM will be an information addressee on all correspondence and messages concerning activities addressed by this part and reports of guidance and action taken.

(d) HQ USAF/DPXX/JACM is the Air Staff focal point for activities related to this part, and will provide staff support to the Secretary of the Air Force in making determinations required by this part.

(e) Air Force officers and noncommissioned officers, especially unit commanders, senior enlisted advisors and first sergeants, are responsible for insuring that Air Force personnel are aware of the policies, rights and responsibilities expressed herein, and all personnel are responsible for assisting installation commanders in identifying incidents and/or conduct prohibited by this part.

§ 888g.8 Situational guidance.

To assist installation and intermediate commanders in dealing with activities prohibited by this part, guidance for typical situations is provided in § 888g.14. This guidance is for example only and is not intended to override the judgment of individual commanders or the advice of their staff judge advocates.

§ 888g.9 Military union incident, RCS HAF-DPX(AR) 7701.

The reports specified in § 888g.7(b)(3) will be furnished as required to HQ USAF/DPXX/JACM. The reports will be submitted by electrical message in the format of § 888g.13. During periods when MINIMIZE is imposed, commanders will consider the severity of the activity in approving electrical transmission.

§ 888g.10 Guidelines for making determinations.

This part requires that certain determinations be made on the basis of facts that exist at particular installations. The guidelines for making these determinations are:

(a) A person or organization poses a clear danger to the discipline, loyalty, or obedience to lawful orders when the person or organization, or any person on behalf of the organization, engages in, solicits, or aids and abets any act prohibited by this part, or violates or conspires to violate 18 U.S.C. 1382, or solicits or aids and abets a violation of Articles 82, 85, 86, 87, 89, 90, 91, 92, 94, 108, 109, 115, 116, 117 or 128 of the Uniform Code of Military Justice. In making this determination, the history and operations of the organization (including the constitution and bylaws, if any) or person in question may be evaluated along with evidence with respect to the conduct constituting a prohibited act. In addition, there must be sufficient evidence to support a conclusion that the person or organization is substantially likely to engage in a prohibited act.

(b) In determining whether commission of a prohibited act by individual members of an organization can be attributed to that organization, examples of factors which should be considered include: the frequency of such act; the position in the organization of persons committing such act; whether the commission of such act was known by the leadership of the organization; and whether the commission of such act was condemned or disavowed by the leadership of the organization.

(c) In determining whether individual contact or posting for public display of any poster, handbill, or other writing constitutes or includes an invitation to collectively engage in an act prohibited by this regulation, specific language of the conversation or written material will be considered. In the case of individual conversations, deter-

minations will be sensitive to protection of First Amendment rights of free speech.

(d) In making the decision that a military member of the Air Force is an "active" member of the organization in question, membership must be more than merely nominal or passive. Normally a person can be considered an active member if he or she engages in certain kinds of conduct for the organization. This conduct includes solicitation or collection of dues, membership recruitment, distribution of literature, service as an officer of the organization, or frequent attendance at meetings or activities of the organization.

(e) In deciding that a military member knows about the prohibited conduct engaged in by the organization, such knowledge may be inferred if the notice specified in § 888g.7(b)(4) has been properly posted.

(f) In deciding that a military member intends to promote the prohibited conduct engaged in by the organization, his or her conduct and/or participation in the organizational activities which constitute active membership will be considered.

§ 888g.11 Air Force installations where provisions of this part have been invoked by the Secretary of the Air Force. [Reserved]

§ 888g.12 Organizations determined by the Secretary of the Air Force to present a clear danger to Air Force discipline, loyalty or obedience to lawful orders. [Reserved]

§ 888g.13 Reporting format.

Priority Message

To: Intermediate Commanders and Majcom.
Info: HQ USAF/DPXX/JACM.
Subject: Military Union Incident, RCS HAF-DPX(AR) 7701.

A. Name of installation.

B. Type of incident (request or attempt for negotiation or collective bargaining, strike or other concerted action, solicitation or request for recruitment, distribution of literature, active membership, or other prohibited activity).

C. Name(s) of individual(s) or organization.

D. Narrative statement of incident.

E. Brief summary of constitution, bylaws, statement of purpose submitted by the individual or organization, or other information and the source to provide sufficient data for SECAF determination.

F. Summary of commander's action.

Note 1: Information and data gathered on persons or organizations not affiliated with the Department of Defense will be in accordance with AFR 124-13.

Note 2: During periods when minimize is imposed, commanders will consider the severity of the activity before approving electrical transmission.

§ 888g.14 Situational guidance for commanders.

RULE	A	B	C	D
	If the incident concerns	and	then the installation commander	and
1	an individual or organization that claims to represent military members of the Air Force	the purpose is for negotiation or collective bargaining over terms or conditions of military service	advises the individual or organization that he or she is prohibited from negotiating or collectively bargaining over terms or conditions of military service	reports the incident IAW §888g.13.
2	an individual or organization that requests permission to negotiate or collectively bargain on behalf of military member. Air Force			denies the request and reports the incident IAW § 888g. 13.
3	an individual or organization that attempts to negotiate or collectively bargain on behalf of military members of the Air Force			reports the incident IAW §888g. 13.
4	an organization that claims to represent military members of the Air Force threatens a strike, slowdown, work stoppage or other collective job-related action, or picket		advises the organization and all military personnel that they are prohibited from engaging in strikes, slowdowns, work stoppages, or other collective job-related actions, or picketing	
5	an organization that claims to represent military members of the Air Force engages in a strike, slowdown, work stoppage or other collective job-related action, or picket	the organization and military members have been advised that such activity by military personnel is prohibited	takes necessary action to return to normal operation	takes disciplinary action, when appropriate, against military members of the Air Force who engaged in prohibited activity, and reports incident IAW §888g.13.
6	an individual or organization that pickets for the purpose of causing or coercing military members of the Air Force to engage in a strike, slowdown, work stoppage or other collective job related action		takes necessary action to stop such activity on base	
7	an individual or organization that requests permission to conduct a demonstration, meeting or protest, or engage in speechmaking, picketing or leafleting, or other such activity	the purpose is to solicit military members of the Air Force to join an organization that participates, or is substantially likely to participate, in negotiation or collective bargaining, strikes or other concerted actions	denies the individual or organization access to the base and/or denies permission to conduct such activities	reports the incident IAW §888g.13.
8		the organization proposes or holds itself out as proposing to engage in negotiation or collective bargaining on behalf of military members of the Air Force		

BEST DOCUMENT AVAILABLE

RULE	A	B	C	D
	If the incident concerns	and	then the installation commander	and
9	an individual or organization that attempts to recruit military members of the Air Force on base for any organization	permission has not been requested	directs individuals or organizations to cease and desist and removes violators from the base	reports the incident IAW §888g.13.
10		permission was previously requested but denied		takes disciplinary action, when appropriate, and reports incident IAW §888g.13.
11	an individual or organization that conducts recruiting of military personnel for any organization and the method is by such techniques as individual contacts or posting of any poster, handbill or other writing for public display	such contact or posting constitutes or includes an invitation to engage in negotiation or collective bargaining, or a strike or other concerted action	denies access to the base or removes violators and prohibits further contact, posting or distribution of such material pending determination by SECAF (see note)	reports the incident IAW §888g.13.
12		SECAF makes determination that the organization poses a clear danger to discipline, loyalty, or obedience to lawful orders	posts the notice required by paragraph 5b(4).	
13	an individual or organization that attempts on-base distribution of literature	permission has not been requested	halts distribution and reviews the literature to determine whether it constitutes a clear danger to discipline, loyalty or morale IAW AFR 35-15.	
14		the commander decides the material does not constitute a clear danger to discipline, loyalty or morale	permits distribution.	
15		the commander decides the material does constitute a clear danger to discipline, loyalty or morale	prohibits further distribution and advises distributor to cease and desist	reports the incident IAW §888g.13.
16		permission to distribute was previously denied	halts further distribution, confiscates available literature, and removes violators from the base	
17	an individual or organization that distributes literature soliciting membership or promoting an organization which purports or proposes to represent military members in negotiation or collective bargaining	distribution is through the US Mail	takes no action	

BEST DOCUMENT AVAILABLE

RULE	A	B	C	D
	If the incident concerns	and	then the installation commander	and
18	a military member who asks about the legality of joining a union or other organization		advises member active membership is prohibited in organizations that violate AFR 30-24 when the member knows the organization engages in prohibited conduct and the member intends to promote such conduct	further advises member that it is permissible to belong to an organization which engages in representational activities with respect to terms or conditions of off-duty employment.
19	a military member who joins a labor organization for representation not related to off-duty employment	SECAF has not made a determination that the organization presents a clear danger to discipline, loyalty or obedience to lawful orders	gathers information on subject organization IAW AFR 124-13	reports the information IAW §888g.13 (see NOTE).
20		SECAF has made determination that the organization poses a clear danger and enters it on such)	posts notice IAW §888g.7(b)(4).	
21		SECAF has made determination and Commander decides member knows determination has been made and is active participant in the organization's activities	takes disciplinary or administrative action, when appropriate,	reports the incident IAW §888g.13.
22	a military member who already belongs to a labor organization for representation not related to off-duty employment	SECAF has not made a determination that the organization presents a clear danger to discipline, loyalty or obedience to lawful orders	gathers information on subject organization IAW AFR 124-13	reports the information IAW §888g.13 (see NOTE).
23		SECAF has made determination that the organization poses a clear danger and enters it on such)	posts notice IAW §888g.7(b)(4).	
24		SECAF has made determination and Commander decides member knows determination has been made and is active participant in the organization's activities	takes disciplinary or administrative action, when appropriate	reports the incident IAW §888g.13.

NOTE: SECAF will make determination whether such individual or organization presents a clear danger to discipline, loyalty, or obedience to lawful orders of the Air Force. When SECAF makes affirmative determination and enters it on §888g.12, INSTALLATION commander posts notice IAW §888g.7(b)(4).

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PART 888h—SEPARATION DOCUMENTS AND GENERAL SEPARATION PROCEDURES

Sec.

888h.0 Purpose.
888h.1 Purpose of separation documents.
888h.2 Naturalized personnel separated under other than honorable conditions.
888h.3 Aliens discharged for alienage and desertion.
888h.4 When DD Form 214 is issued.
888h.5 Distributing DD Form 214.
888h.6 Incomplete DD Form 214.
888h.7 Correcting DD Form 214.
888h.8 Copies of DD Form 214.
888h.9 Requests for reissuing DD Form 214.
888h.10 Narrative explanations.
888h.11 Replacing separation certificates.
888h.12 Table for distributing DD Form 214.
888h.13 Table for issuing DD Form 214.
888h.14 Table for discharge review procedures.
888h.15 Table for agencies authorized to correct or issue copies of DD Form 214.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012; 10 U.S.C. 1168, 1169; and as otherwise stated herein.

SOURCE: 44 FR 74820, Dec. 18, 1979, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation, 35-6, July 13, 1979.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 888h.0 Purpose.

This part gives procedures for controlling, preparing, and distributing separation documents and for controlling lists of Separation Program Designators. It applies to all members of the Air Force who are leaving active duty, being separated from one active duty status to continue in another, or being removed from the Temporary Disability Retired List (TDRL) and discharged. This includes officers, warrant officers, airmen, and cadets who are discharged, retired, transferred, dismissed, or released. It also applies to persons to whom discharge documents are issued under AFR 30-45. This part implements DOD Instruction 1336.1, December 14, 1978 and is effective October 1, 1979.

§ 888h.1 Purpose of separation documents.

(a) DD Form 214, Certificate of Release or Discharge From Active Duty. This form is not intended to have any legal effect on ending a member's military status. It meets the legal requirements for issuing a certificate (10 U.S.C. 1168) and provides:

(1) The Military Services with information about military personnel for administration. It may be used to help determine eligibility for reenlistment.

(2) The separating member with a brief, clear record of active military service at the time of transfer, release, or discharge.

(3) Government agencies with authoritative information they need in the administration of Federal and State laws applying to persons who have been discharged, otherwise released, or transferred to a reserve component.

(b) DD Form 214-ws, Certificate of Release or Discharge From Active Duty (Worksheet). Personnel use the worksheet to help prepare the DD Form 214 and make sure the data entered on the form is accurate.

(c) DD Form 215, Correction of DD Form 214, Certificate of Release or Discharge From Active Duty. The form:

(1) Corrects errors found after a DD Form 214 is issued; or

(2) Completes a DD Form 214 by adding information that was not available when the DD Form 214 was issued.

(d) Separation Order. A special order effects discharge or release from active duty (see AFR 10-7, Administrative Orders). Use a PB series order to discharge airmen for reenlistment within 24 hours.

(e) Discharge Certificate. A discharge certificate attests to the character of the service rendered. There are five types of discharge certificates:

(1) DD Form 256AF, Honorable Discharge.

(2) DD Form 257AF, General Discharge.

(3) DD Form 259AF, Bad Conduct Discharge.

(4) DD Form 260AF, Dishonorable Discharge.

(5) DD Form 794AF, Discharge Under Other Than Honorable Conditions.

§ 888h.2 Naturalized personnel separated under other than honorable conditions.

(a) Revoking Citizenship. Persons may be naturalized through service in the United States Armed Forces during specified periods (see AFM 211-28, Naturalization and Citizenship, and 8 U.S.C. 1440). Persons who were naturalized this way may have their citizenship revoked if they are separated under other than honorable conditions.

(b) Notifying the Immigration and Naturalization Service. The Immigration and Naturalization Service acts in cases in paragraph (a) of this section. As a rule, only the naturalization records show the law under which a person was naturalized. Therefore, when a naturalized member is separated under other than honorable conditions, the separating activity notifies the Immigration and Naturalization Service, 425 I Street NW, Wash DC 20536. See § 888h.12, note 1. The letter reporting the separation gives the person's:

(1) Full name.

(2) Date and place of separation.

(3) Future home address.

(4) Certificate of naturalization number.

(5) Name under which naturalized, if different from name at separation.

(6) Date and place of birth.

(7) Date and place of naturalization.

888h.3 Aliens discharged for alienage and desertion.

HQ AFMPC/MPCAKE may authorize discharge in absentia when an alien deserter goes to live in a foreign country. A discharge for alienage and desertion usually bars the person from returning to the United States as an immigrant alien. When an alien is discharged for alienage and desertion, the separating facility:

(a) Sends the Department of State Visa Office SCA/VO, State Annex No. 2, Wash DC 20520, a copy of the original DD Form 214. Enter the place of birth in block 18. The letter of transmittal explains that the person was discharged in absentia for alienage and desertion. See 888h.12, note 1. This information helps prevent issuing a visa when the person does not qualify for one.

(b) Reports the details of the discharge to the Immigration and Naturalization Service, 425 I Street NW, Wash, DC 20536. See § 888h.12, note 1. The letter states that the airman was discharged for alienage and desertion, gives the dates of the unauthorized absence and the member's:

(1) Full name, address, and SSAN.

(2) Country of birth.

(3) Complete address in the country of residence when discharged.

(4) Alien registration number if known.

(5) Declarant number shown on the DD Form 4, Enlistment or Reenlistment Agreement—Armed Forces of the United States.

(6) Date of enlistment in the Air Force.

§ 888h.4 When DD Form is issued.

To find out the types of separation action and when a DD Form 214 must be issued, see § 888h.13. HQ AFMPC/MPCAKE may also direct issuance under other conditions. Once a DD Form 214 has been issued, it will not be reissued except when:

(a) Directed by an appellate authority, Executive Order, or by the Office of the Secretary of the Air Force.

(b) A DD Form 215 has been issued and further correction is needed.

(c) Correcting or completing the original DD Form 214 would require using more than DD Form 215.

(d) The correction involves the name, SSAN, service characterization, authority or narrative reason for discharge or the effective date of separation.

§ 888h.5 Distributing DD Form 214.

(a) Hand the original DD Form 214 to the separatee before he or she leaves the separation facility on the date:

(1) Separation from active duty is effective; or

(2) Authorized travel time starts for a Reserve member reverting to inactive status.

(b) At the same time, give copy four to a member who asks for it. Counsel members about the value of copy four. Make sure they understand its value as an official record showing the character of their service, reenlistment eligibility, and specific reason for separation. Encourage them to ask for and keep this copy. It could help them if they apply for benefits based on military service, request review of the discharge action (see § 888h.14), or seek to reenter one of the Armed Forces.

NOTE: A member requests copy four by initialing block 30 on the DD Form 214.

(c) Mail the original DD Form 214 to the separatee on the effective date of separation when it is not possible to deliver it personally. This is done when the member is:

(1) On terminal leave.

(2) At home awaiting disability separation.

(3) In civil confinement.

(4) Separated in absentia under other conditions when this action is authorized.

(d) Deliver the original (and copy four, if requested) in person or by mail to the next of kin or guardian for an incompetent member.

(e) Mail copies three, five, and six the first workday after the separation date (see § 888h.12). If the member is an alien discharged in absentia, or a naturalized member discharged under other than honorable conditions, refer to §§ 888h.2 and 888h.3.

§ 888h.6 Incomplete DD Forms 214.

Each DD Form 214 must be as complete as possible when it is issued. When a DD Form 214 must be issued without all the required entries, the separating activity:

(a) Tells the separatee that DD Form 215 will be issued when the information is available and by whom it will be issued (see § 888h.15).

(b) Tells the separatee to contact that agency, if the DD Form 215 is not received within 60 days.

(c) Notes the requirement for issuing the DD Form 215 on the DD Form 214, block 18 (remarks section).

(d) Obtains the missing information as soon as possible.

(e) Sends the FRGp to HQ ARPC/DPFSB or HQ AFMPC/MPCDOB, (see AFR 35-44, Military Personnel Records System), with a letter explaining the need for the DD Form 215. If any part of the information needed for the DD Form 215 has not been obtained, the letter tells what action was taken to try to get it. This letter must be signed by the Chief, CBPO or a similar official in other separation facilities. It is stapled to the front of the FRGp.

§ 888h.7 Correcting DD Form 214.

CBPOs and other separation facilities in the field are not authorized to correct errors found after the original DD Form 214 has been delivered. For agencies authorized to issue DD Form 215 to correct such errors, see § 888h.15. If none of the rules in § 888h.15 applies, send the request for correction to the custodian of the master personnel record (MPerR) (see AFR 35-44, table 1-3). The separation facility notifies the responsible agency if an error on the DD Form 214 is found after it has been distributed. The distribution and Privacy Act accountability of the DD Form 215 are the same as those of the DD Form 214 it corrects. For information about reissuing DD Form 214, when correction by DD Form 215 is not proper, see § 888h.4

§ 888h.8 Copies of DD Forms 214.

Former members who want copies of the DD Form 214 held in their MPerRs must ask for them in writing. For agencies authorized to issue copies, see § 888h.15.

(a) DD Forms 214 Issued After October 1, 1979. The agency sends the member one copy with the Special Additional Information Section and one copy without it.

(b) DD Forms 214 Issued Before October 1, 1979. The agency sends the member one copy with all the items of information completed and one copy with the following deleted:

(1) Specific authority for separation.

(2) Narrative reason for separation.

(3) Reenlistment eligibility code.

(4) SPD or Separation designation Number (SDN).

99-112 O—82——35

(c) Copies to Other Persons or Agencies. If a former member authorizes, in writing, issuing a copy of a DD Form 214 to another person or agency, the copy sent must not contain the Special Additional Information Section. If the DD Form 214 was issued before October 1, 1979, delete the items listed in paragraph (b) of this section.

(d) Use of Copies. Copies are given to authorized personnel for official purposes only.

§ 888h.9 Requests for reissuing DD Form 214.

New DD Forms 214 need not be prepared for persons who were given prior editions of the form, unless that form needs to be reissued for some other reason (see § 888h.4).

§ 888h.10 Narrative explanations.

A person may take an original DD Form 214 to the nearest CBPO for a narrative explanation of the reason for discharge from that period of service.

(a) If the reason for separation can be found in the DD Form 214, CBPO/DPMQS:

(1) Gives the narrative explanation in a letter signed by a person authorized to sign DD Forms 214.

(2) Returns the original DD Form 214 to the person with the original letter.

(3) Sends a copy of the letter to the custodian of the MPerR.

(b) If the reason for separation cannot be found in DD Form 214, CBPO/DPMQS:

(1) Refers the request to HQ AFMPC/MPCAKE, Randolph AFB, TX 78148. Send the original DD Form 214, the person's mailing address, and a copy of the separation order, if one is available.

(2) Notifies the person of the referral.

§ 888h.11 Replacing separation certificates.

Applications for replacing separation certificates are processed under Part 887 of this chapter. It tells how and where to apply for a certificate instead of a lost or destroyed certificate of service, discharge, or retirement.

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§ 888h.12 Table for distributing DD Form 214.

Copy	Recipient	Instructions
1	Member	If the member is an alien, comply with 888h.2 and 888h.3.
2	Master Personnel Record	Send to record custodian (AFR 35-44) with FRGp.
3	Veterans Administration (see notes 1 and 2)	Mailing address: Veterans Administration, Data Processing Center (214) 1615 E. Woodward Street, Austin TX 78772. Destroy if the member is continuing on active duty (see 888h.13).
4	Member (optional)	Given only to those members who request it by initialing Block 30. Send forward with copy two for inclusion in the Master Personnel Record, if not requested by member.
5	Department of Labor (see note 1)	Mailing address: US Department of Labor, Unemployment Insurance Systems Design Center, P.O. Box 44246, Capitol Station, Baton Rouge LA 70804.
6	State Director of Veterans Affairs (see note 1)	Forward only if member requests by initialing Block 20. Member must specify state. See attachment 2 for mailing addresses of state offices.
7	Field Record Group	For NONPRIOR SERVICE PERSONNEL at end of Initial Active Duty Training only. Otherwise, destroy.
8	As required by special instructions	HQ AFMPC/MPCAKE may issue special instructions applicable to all, or limited to certain categories for specific times. MAJCOMs may request copies for special review procedures subject to HQ AFMPC/MPCAKE coordination. Destroy copy 8 when no special instructions from HQ AFMPC or MAJCOM are in effect.

NOTES: 1. Accounting for disclosure of personal data is required by AFR 12-35. Update disclosure accountings to Privacy Act Tracking System (PATS) according to AFM 30-130. EXCEPTION: PATS accounting is not required for those members discharged or retired when the disclosure is recorded in item 18, copies two and four.

2. Reproduce copy three to be forwarded with the medical records to:
   a. The VA hospital, if a member is transferred there; or
   b. The VA regional office having jurisdiction over the member's permanent address, if the person completes VA Form 21-526e, Veterans Application for Compensation or Pension at Separation from Service

§ 888h.13 Table for issuing DD Form 214.

RULE	A	B	C
	If a member is being separated	and the reason is	then a DD Form 214
1	from a period of active duty, active duty for training, full time training duty, a special tour of active duty, or a full time manning tour, according to 10 U.S.C. 672, 32 U.S.C. 503 or 32 U.S.C. 505	completing or ending active service as a member of the Regular Air Force	is issued.
2		disability	
3		completing 90 continuous calendar days or more active duty by an ANGUS or USAFR member (see note)	
4		ending an initial tour of active duty training (by an ANGUS or USAFR airman)	
5		release from a status legally determined to be void	
6		dismissal from the service under a sentence of general court-martial	
7		an order of the Secretary of the Air Force that the member be dropped from the rolls of the Air Force	need not be issued.
8		death	
9		any circumstance when the Secretary of the Air Force directs that no discharge documents be issued	
10	from one status to continue in another	immediate reenlistment or enlistment	
11		ending a Reserve appointment to integrate into the Regular Air Force	
12		discharge from enlisted status to accept appointment as a commissioned or warrant officer	is issued.
13		ending an officer appointment to accept appointment in another service or to enlist in the Regular Air Force	
14		retirement with entitlement to pay	
15		removal from TDRL	is not issued.
16	without entering on active duty	physical disqualification for entry when reporting for active duty	

NOTE: Includes ending ANG military full time training and administration (MFTTA) active duty tour.

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§ 888h.14 Table for discharge review procedures.

If the member is discharged		RULE		
		1	2	3
		administratively under an authority that bars reenlistment	administratively with other than an honorable discharge or by sentence of special court-martial	by sentence of general court-martial
	then the CBPO/DPMQS			
A	explains the purpose and scope of the Air Force Discharge Review Board	X	X	
B	gives the member a copy of AFR 20-10 and DD Form 293 on request	X	X	
C	explains the purpose and scope of the Air Force Board for the Correction of Military Records	X	X	X
D	gives the member a copy of AFR 31-3 and a DD Form 149 on request	X	X	X
E	gives the member a Department of Labor Exemplary Rehabilitation Certificate Brochure available from US Department of Labor, Veterans Employment Service, Patrick Henry Building, 601 D Street NW, WASH DC 20213 ATTN: VES		X	X

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541

§ 888h.15 Table for agencies authorized to correct or issue copies of DD Form 214.

RULE	A	B	C
	If member has been	and military status is	then send request to
1	retired (on TDRL)	officer (includes general officer)	HQ AFMPC/MPCDOO, Randolph AFB TX 78148
2		airman	HQ AFMPC/MPCDOA, Randolph AFB TX 78148.
3	retired (with pay)	general officer	HQ AFMPC/MPCDOO, Randolph AFB TX 78148
4		other officer or airman	NPRC/MPR, GSA, 9700 Page Blvd, St Louis MO 63132.
5	discharged		
6		USAF Academy cadet	USAFA/DPA, USAF Academy CO 80840
7	released from active military service to the ANGUS or USAFR	officer or airman	HQ ARPC/DPFSB, Denver CO 80280
8	separated to continue in active service	officer	HQ AFMPC/MPCDOO, Randolph AFB TX 78148.
9		airman	HQ AFMPC/MPCDOA, Randolph AFB TX 78148.

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542

542

PART 889—DESERTION AND UNAUTHORIZED ABSENCE

Subpart A—General Information and Policy

Sec.
889.1 Purpose.
889.2 When unauthorized absence begins and ends.
889.3 Administrative classification of deserters.
889.4 When return to military control occurs.
889.5 Apprehension policy.
889.6 Authority to apprehend.
889.7 Where absentees are returned to military control.

Subpart B—Responsibilities

889.8 General responsibilities.

Subpart C—Cooperation With Civil Authorities

889.9 Notice to civil authorities.
889.10 Absentees detained by civil authorities.
889.11 Rewards and reimbursements.
889.12 Notice of return to military control.

Subpart D—Action Involving National Security

889.13 Action in cases involving security considerations.

AUTHORITY: 10 U.S.C. 8012.

SOURCE: 45 FR 25060, Apr. 14, 1980, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation 35-73, December 3, 1979, and Interim Message Change, January 28, 1980.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

Subpart A—General Information and Policy

§ 889.1 Purpose.

This part sets out policies and standard procedures for the management of desertion and unauthorized absence. It tells how the Air Force tries to reduce the number of absences and return the absentees to military control. It implements DOD Directive 1325.2, August 20, 1979. This part applies to all military personnel serving on, or ordered to report to, active duty with the Air Force. This includes members of the Reserve components who are serving on, or ordered to report to active duty or active duty for training.

NOTE: This regulation prescribes a system of records which is affected by the Privacy Act of 1974 as authorized by 10 U.S.C. 885, 886, and 887.

§ 889.2 When unauthorized absence begins and ends.

An unauthorized absence:

(a) Starts at the time a member is absent from the place where he or she is required to be present. Cite the date and hour.

(b) Ends when the absentee or deserter returns to military control (see § 889.4). Cite the date and hour.

§ 889.3 Administrative classification of deserters.

Classify an absentee as a deserter, for administrative purposes, and issue a DD Form 553, Absentee Wanted by the Armed Forces, when he or she:

(a) Has been absent without leave (AWOL) for 30 consecutive days. Count the day of departure as the first day of AWOL. This status lasts through 2400 hours on the 30th consecutive day. Change the absentee's status to desertion at 0001 hours on the 31st day.

(b) Is AWOL, without regard to the length of the absence, and:

(1) Is under duty or travel restrictions imposed by AFR 205-32, USAF Personnel Security Program.

(2) Has had access in the past 12 months to TOP SECRET information or other classified information for which special access authority is required.

(3) Has gone to, or remains in, a foreign country and, while in the foreign country, has requested or applied for, or accepted, any type of asylum or resident permit from that country, or any governmental agency of the foreign country.

(4) Action pending on a previous unathorized absence has not been completed.

(5) Is an escaped prisoner.

(6) In addition to being AWOL, is wanted for a serious offense.

NOTE: Refer to § 889.13 if (b) (1), (2), or (3) of this section applies.

§ 889.4 When return to military control occurs.

Return to military control occurs when (date and hour):

(a) An absentee or deserter surrenders to, is delivered to, or is apprehended by or for military authorities; or

(b) A civilian authority holding the absentee or deserter for some reason other than at the request of the military informs the military of his or her availability; or

(c) An absentee or deserter otherwise comes under the control of military personnel; or

(d) Is determined by HQ AFMPC/MPCAKE to have been returned to military control.

NOTE: An absentee in the hands of civil authorities is no longer considered to be at large when a detainer is lodged with civilian authorities. The detainer ensures that military authorities will be told when civilian authorities are ready to release the absentee.

§ 889.5 Apprehension policy.

Commanders must make every effort to apprehend absentees as quickly as possible. Investigation of the facts of the case and apprehension efforts must start immediately when an unauthorized absence occurs. These efforts not only help return the absentees to military control sooner, but they can also serve to deter others from unauthorized absence. When a lead as to the location of an absentee is developed, the security police pass it to the proper civil law enforcement authorities and ask for their help in returning the absentee to military control. The CBPO prepares a DD Form 553 in these cases, if one has not been issued. Distribution is limited to the military records and the civil authorities concerned.

§ 889.6 Authority to apprehend.

(a) Absentees and deserters may be apprehended by members of the Armed Forces as prescribed by Article 7b of the UCMJ and the Manual for Courts-Martial (MCM).

(b) A civil officer who has authority to apprehend offenders under the laws of the United States may summarily apprehend a deserter from the Armed Forces and deliver him or her into the custody of the Armed Forces. See Article 8 of the UCMJ and MCM. Civilian law enforcement authorities may apprehend absentees when requested to do so by Military or Federal authorities.

(c) United States authorities may apprehend absentees and deserters in foreign countries only when authorized to do so by an international agreement with the country concerned, or by agreement with proper local authorities when such agreement is not violative of an existing international agreement. In these cases:

(1) Give careful consideration, in consultation with the servicing staff judge advocate, to possible international implications and adverse foreign reaction.

(2) Where apprehension cannot be accomplished, or in any case where doubt exists as to apprehension authority, a report of the facts must be sent to HQ USAF/JACI, Wash DC 20324, for submission through channels to the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) for resolution.

§ 889.7 Where absentees are returned to military control.

(a) Absentees and deserters will be received at any military installation staffed by active duty personnel. Immediate action must be taken to transfer an individual to the nearest installation of his or her branch of the military service having facilities to process absentees and deserters.

(b) In foreign countries, military attachés, the Chiefs of Military Assistance Advisory Group (MAAG) or similar organizations will not accept the offer of a deserter or absentee to return to military control unless the United States is directly responsible for the presence of the individual in the country where assistance is requested.

(1) Generally, such deserters and absentees are advised and assisted to report, at their own expense, to a proper United States military installation within the United States or overseas.

(2) Unless they are citizens of the country in which assistance is requested, absentees and deserters must be reported to the proper authorities of such foreign country with a view toward deportation.

(3) If the individual departs the foreign country or is deported, the military attaché or Chief of the MAAG will make arrangements, if possible, when such departure is known, to have the individual taken into custody on his or her arrival within a territory where United States military officers have authority to apprehend.

(4) The Chief of the US diplomatic mission must be kept fully informed.

Subpart B—Responsibilities

§ 889.8 General responsibilities.

(a) All Members. All members of the Air Force must be present for duty at the time and place they are ordered to be. It is their responsibility to do this in support of mission accomplishment.

(b) Commanders and Supervisors at All levels. Commanders and supervisors must:

(1) Make sure that all members understand and assume their responsibility to be present for duty at the time and place they are ordered to be.

(2) Take prompt action when a member is not present for duty.

(c) Directorate of Personnel Plans (HQ USAF/MPX):

(1) Is the focal point for personnel policy.

(2) Is responsible for initiating and fostering those policies that will minimize the occurrence of unauthorized absence and desertion.

(d) International Law Division, Office of the Judge Advocate General (HQ USAF/JACI). This is the focal point for international law issues concerning apprehension overseas.

(e) Chief of Security Policy, Air Force Office of Security Police (HQ AFOSP/SP):

(1) Is the focal point for apprehension of absentees and deserters.

(2) Evaluates and proposes changes as needed to the Joint Service Apprehension Program.

(3) Develops, disseminates, monitors, and evaluates policies and procedures for the apprehension of Air Force absentees.

(4) With the assistance of the Defense Investigative Service establishes liaison and maintains a level of coordination with civilian law enforcement agencies and other military services as necessary to encourage their active participation in absentee and deserter apprehension programs.

(5) Provides guidelines and monitors the use of escorts in moving members returned to military control.

(f) Directorate of Criminal Investigation, Air Force Office of Special Investigations (HQ AFOSI/IVG):

(1) Makes entries in the National Crime Information Center (NCIC).

(2) Inquires into the circumstances of unauthorized absences when asked by commanders to do so.

(g) Airman Separations Branch, HQ Air Force Manpower and Personnel Center (HQ AFMPC/MPCAKE):

(1) Coordinates and disseminates procedures for management of unauthorized absences.

(2) Monitors disposition of absentees returned to military control and gives guidance in unusual cases.

(3) Is the Air Force Deserter Information Point (DIP).

(4) Maintains statistical data concerning unauthorized absences.

(h) Military Pay Division, HQ Air Force Accounting and Finance Center (HQ AFAFC/MP). Establishes procedures to prevent absentees from drawing pay to which they are not entitled.

(i) Base Commanders and Higher Echelon Commanders:

(1) Must stress continually the Air Force position on unauthorized absence and desertion.

(2) Set up management practices and programs to deter absenteeism and desertion.

(3) Undertake local publicity and information efforts about the deserter apprehension program that will serve to deter potential absentees.

(4) Develop programs to ensure retention of the maximum number of those absentees or deserters who have returned to military control and have the potential for continued effective service.

(5) Make agreements with local or area commanders of other services to

facilitate the pickup and transportation of absentees or deserters of all Services.

(j) Major Command (MAJCOM) Commanders. They must make sure that Consolidated Base Personnel Offices (CBPOs) and units comply with this part.

Subpart C—Cooperation With Civil Authorities

§ 889.9 Notice to civil authorities.

(a) Within the Jurisdiction of the United States. CBPOs send out DD Forms 553 promptly when a member is administratively classified as a deserter. They send them to the Armed Forces and civil law enforcement agencies that are most apt to be helpful in apprehending the particular absentee. HQ AFMPC/MPCAKE sends notices to the FBI and to the Department of State in certain cases. These include cases where the absentee is known, or thought, to have gone to a foreign country.

(b) Outside the Jurisdiction of the United States. Major commands take action as the local situation may warrant. They must act within the primacy of international agreements to secure cooperation in apprehension of members who are absent without leave (see § 889.7).

§ 889.10 Absentees detained by civil authorities.

(a) Absentees and deserters detained temporarily in the hands of US civil authorities must be picked up by military authorities as soon as possible. As a goal, they should be picked up within 48 hours after military authorities are told that US civil authorities will release them. In situations where absentees and deserters are detained temporarily in the hands of foreign authorities, especially individuals detained by foreign authorities other than those of the country of assignment, consultation with the servicing staff judge advocate is required. Civil authorities apprehend and hold absentees as a service to the military departments. They should not be required to help them longer than necessary.

(b) Unless other specific arrangements have been made, when one of the military services picks up absentees or deserters from civil authorities anywhere in CONUS, they pick up all such individuals at the same time. They do this without regard to the military service from which the member is absent. They take the absentees to the nearest military installation that has facilities to process absentees or deserters. If the military service cannot pick up all the absentees or deserters being held, they notify the military service or services of the individuals who remain in custody. This should be done before those who are making the pickup leave the confinement facility.

§ 889.11 Rewards and reimbursement.

(a) Any authorized communication, oral or written, from a military or Federal law enforcement official or agency, requesting active cooperation in the apprehension or delivery to military control of an absentee or deserter wanted by the Air Force constitutes the basis for a reward. After such communication, persons or agencies apprehending, detaining, or delivering absentees, deserters, or escaped military prisoners to military control are rewarded or reimbursed (but not both) as follows:

(1) Payment of a reward of $50 for the apprehension and detention of absentees, deserters, or escaped military prisoners until the military authorities take them under control.

(2) Payment of a reward of $75 for the apprehension and delivery to military control of absentees, deserters, or escaped military prisoners.

(3) When persons or agencies who apprehend or return absentees and deserters to military control may not be paid a reward, reimbursement for reasonable and actual expenses may be made not to exceed $75 for any one case.

(b) Payments authorized by (a) of this section and cost of travel of guards assigned to the absentees or deserters will be charged to the military personnel appropriation of the Air Force. These costs will not be reimbursed by the absentee or deserter.

Costs associated with an absentee's or deserter's own transportation for return to military control will be charged to the pay account of the individual member as prescribed in the Joint Travel Regulation, volume I, chapter 5.

§ 889.12 Notice of return to military control.

Civil authorities must be told immediately when an absentee has returned to military control. This is necessary to prevent the apprehension of a person who is no longer a deserter or one who has been discharged. The DD Form 616 is the standard format for this notice within the United States. Other means of notification may be used outside the United States, if they are more appropriate.

Subpart D—Action Regarding National Security

§ 889.13 Action in cases involving security considerations.

This section gives instructions for additional actions that must be taken when a case involves matters that may affect the national security. When an absentee is administratively classified as a deserter for one of the reasons in § 889.3(b) (1), (2), or (3):

(a) The commander:

(1) Immediately notifies HQ USAF/DAI, HQ AFOSI/IVG/IVO and HQ AFMPC/MPCAKE, by message (includes MINIMIZE), with the servicing CBPO and affected MAJCOM or MAJCOMs as information addresses. The message gives:

(i) Information required to prepare a DD Form 553 with the data numbered to correspond to the items on the form.

(ii) The type of classified information to which the absentee had access (COMSEC, CRYPTON, SIOP, SCI, or other).

(iii) Any information that may show whether the absentee has defected or may have compromised classified information.

(iv) Other information the commander deems to be significant.

(2) Refers the case, for investigation, to the AFOSI unit servicing the base of assignment.

(3) Immediately inventories the classified material to which the absentee had access.

(4) Gives the AFOSI, as soon as possible, an assessment of the degree of damage to the national security that could result from unauthorized disclosure of the information.

(b) HQ AFMPC/MPCAKE prepares and sends the DD Form 553 to the FBI as soon as the commander's message (paragraph (a)(1) of this section) is received.

(c) HQ AFOSI/IVO works with the FBI to expedite the investigation, find, and apprehend the absentee.

SUBCHAPTER J—CIVILIAN PERSONNEL

PART 890—FILLING POSITIONS

Sec.

890.1 Purpose.
890.2 Policy.
890.3 Suitability of candidate and security factors.
890.4 Qualification requirements.
890.5 Referral and selection of candidates.
890.6 Referral and selection priorities.
890.7 Restrictions on employing relatives.
890.8 Restrictions on employment of retired members of the uniformed services.
890.9 Air Force participation.
890.10 Employment under special programs.
890.11 Supergrade and scientific and professional (ST) positions.
890.12 Oversea positions.
890.13 Positions at grade GS-15.
890.14 Other special category positions.
890.15 Referral and selection priorities.
890.16 Procedures for filling GS-15 positions in the competitive service.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: 41 FR 52672, Dec. 1, 1976, unless otherwise noted.

§ 890.1 Purpose.

This part contains information needed by commanders, civilian personnel offices (CPO), staff offices, and supervisors of civilian employees in positions paid from appropriated funds. It sets forth basic Air Force policy for filling positions, specifies the priorities and restrictions which must be observed, and prescribes special procedures for filling GS-15 positions in the competitive service. It does not apply to the employment of non-U.S. citizens in foreign areas or Guam or to employment in the Canal Zone. Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 890.2 Policy.

(a) Air Force positions at all grade levels are filled on the basis of merit and qualifications, without discrimination because of race, color, religion, sex, national origin, age, marital status, physical handicap, political affiliation, or any other nonmerit factors. Positions may be filled from any of the following sources consistent with the priorities herein established and subject to the requirements of other pertinent Civil Service Commission (CSC), Department of Defense (DOD), and Air Force procedures or special employment programs:

(1) In-Service placement of current Air Force employees.

(2) Transfer or appointment of employees from other Federal agencies.

(3) Reinstatement of re-employment of eligible former Federal employees.

(4) Other appointments, including appointments from Civil Service registers.

(b) The availability of eligible Air Force employees who could be considered through merit promotion or other in-service placement procedures, does not preclude a decision to restructure a vacant positon and fill it at a different grade level.

§ 890.3 Suitability of candidate and security factors.

(a) Candidates for civilian positions must be reliable, of good conduct and character, and loyal to the U.S.

(b) The CPO makes written and oral preselection inquiries of former employers, fellow workers and other knowledgeable sources to evaluate a candidate's qualifications and suitability. It also insures that the candidate has the required security check before the final selection is made.

(c) The selection supervisor must also appraise the candidate's general suitability before making a final selection.

§ 890.4 Qualification requirements.

(a) Qualification requirements for positions in the competitive service are established, or approved, by the CSC. These standards prescribe the minimum experience, training, education, physical requirements, or otherwise specify required skills, knowledges, and abilities necessary for successful performance in the position.

(b) Qualification requirements for Air Force positions in the excepted service are established subject to any applicable restrictions and conditions prescribed in the Federal Personnel Manual (FPM), chapter 302 and by DOD and Air Force Career Programs. The Commission's competitive service requirements for similar positions are used as a guide for establishing standards for excepted service positions.

NOTE: When an employee is affected by reduction in force (RIF) or has become physically incapacitated for continuance in his or her present position, a waiver of qualifications may be considered. A waiver of qualifications must be agreed to by the CPO and the supervisor, and when appropriate, by the medical officer before assignment to the vacancy.

§ 890.5 Referral and selection of candidates.

Because of the requirement to observe the priorities established by this regulation for the consideration and selection of candidates, the CPO determines the eligibility of candidates for consideration and identifies those to be referred. DD Form 359, Referral for Consideration, may be used to refer candidates for appointment or for in-service placement consideration. When contacting eligibles for consideration, recruiting officials and selecting supervisors provide complete information regarding duties, living and working conditions, and all other matters needed to make a decision. The position must be represented accurately and without overemphasis or misrepresentation. Neither will a position be described in a manner to discourage interest or solicit declinations. Selecting officials and supervisors do not make firm, tentative, or implied commitment to any vacancy unless clearance has first been obtained from the CPO.

§ 890.6 Referral and selection priorities.

Section 890.15 establishes the order of priorities which must be observed when filing competitive service position vacancies at continuing activities. These priorities are applied to excepted service positions to the extent they are applicable. For the purpose of this section, a vacancy does not exist when an occupied position is:

(a) Reclassified because of a change in classification standards or to correct a classification error, provided the incumbent is to be retained in the position.

(b) Cancelled and a successor position is immediately established which is to be filled by the incumbent through an authorized personnel action.

§ 890.7 Restrictions on employing relatives.

(a) If two or more family members of the same household are serving in the competitive service with career or career conditional appointments, no other member of that family household is eligible for appointment to a competitive service position with career or career conditional tenure, unless the prospective appointee is a preference eligible.

(b) No manager or supervisor may select a relative for a position anywhere in the organization under his or her jurisdiction or control. Additionally, no manager, supervisor, or other public official who has the authority to appoint, employ, promote, or advance individuals or to recommend such action, may advocate or recommend a relative for any position anywhere in the DOD. An individual advocated or recommended in violation of this prohibition may not be employed or advanced as so advocated.

(c) The restrictions in § 890.7(b) do not prohibit the appointment of a preference eligible from a Civil Service Certificate of Eligibles provided an alternate selection cannot be made from the certificate without passing over the preference eligible and selecting a nonpreference eligible. This occurs only when the preference eligible is first on the certificate and lower ranking candidates are nonpreference eligibles.

§ 890.8 Restrictions on employment of retired members of the uniformed services.

Retired members of the uniformed services frequently have skills that can be used in filling civilian positions, but

their selection must be free from even the appearance of preferential treatment. If the appointment of a retired member of any of the uniformed services is proposed to an Air Force position within 180 days after retirement, the CPO must first:

(a) Ensure that currently employed Air Force employees were fully considered for the position in accordance with in-service placement procedures;

(b) Ensure the duties of the position were not designed specifically to favor the qualifications of such retiree;

(c) Ensure that the position was well publicized and recruitment was conducted over a sufficient period of time, and from all appropriate sources, so as to avoid any suspicion of favoritism;

(d) Ensure that the position was not held open pending the retirement of the proposed appointee; and, as required;

(e) Obtain approval of the Secretary of the Air Force, or the Secretary's designee, for both competitive and excepted service positions; and also;

(f) Obtain approval of the CSC for positions in the competitive service.

§ 890.9 Air Force participation.

Air Force activities are expected to participate in the special programs established to enhance employment opportunities of various groups such as the Vietnam Era Veteran's Readjustment Program and special programs for the low skilled, the disadvantaged, the handicapped, and students.

§ 890.10 Employment under special programs.

Many of these programs offer only temporary employment and may be entered into to the extent funds, facilities, and capability to provide supervision and training, are available. Other programs offer, or lead to, permanent type appointments. Current employees are normally available for many continuing positions identified for use in such special programs. The CPO determines when internal candidates should be considered and when such positions should be filled from sources outside the Air Force. Judgment must be used to provide equitable consideration of candidates from all sources depending on the circumstances as they exist at the activity and in the employment area.

§ 890.11 Supergrade and scientific and professional (ST) positions.

The requirements and procedures for filling supergrade (GS–16, 17, and 18) and Scientific and Professional (10 U.S.C. 1581(a)—formerly Pub. L. 313, now coded by CSC as ST positions) positions are established in AFR 40–2.

§ 890.12 Oversea positions.

The policies, procedures, and restrictions which apply to filling Air Force oversea positions are contained in AFR 40–301 and AF Supplement to Basic Federal Personnel Manual, chapter 301.

§ 890.13 Positions at grade GS–15.

When filling GS–15 positions in the competitive service, Air Force-wide consideration is given to all interested and eligible employees, including those interested in reassignment. When desirable or necessary, candidates from outside the Air Force are also considered. Section 890.16 prescribes the special procedures to be followed in filling these positions.

§ 890.14 Other special category positions.

The following positions are subject to and filled according to regulatory references:

Positions or category	*Regulatory reference*
Air Reserve technician (ART) positions.	FPM supplement 930–71, App. A (Internal), "Civilian Personnel Operations under the ART Program"; AFRES supplements to 40 series of Air Force publications, and 40 series of AFRES publications.
Attorney positions	App. J, Air Force supplement to FPM, ch. 213.
Auxiliary civilian chaplains.	AFR 265–4.
Positions under the Canal Zone merit system.	Ch. II, title 5, Code of Federal Regulations (reprinted in Department of the Army civilian personnel regulations, CPR 300).
Experts and consultants.	AFR 40–304, and FPM, ch. 304 and Air Force supplement thereto.

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Positions or category	*Regulatory reference*
Positions subject to the human reliability program.	AFR 40-925.
Motor vehicle operators	FPM, ch. 930.
Personnel employed in sec. 6, post dependent schools.	Subch. 7 of Air Force supplement to FPM, ch. 302.
Teachers in foreign areas.	Subch. 6 of Air Force supplement to FPM, ch. 302.
Quality Assurance specialists (ammunition) and safety specialists (explosives).	AFR 40-927.

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§ 890.15 Referral and selection priorities.

Referral and selection priorities

Priority order	Category of candidate	Must be selected	Must be considered and may be selected	Conditions to be observed	Remarks
A	Applicant or employee with enforceable assignment rights or to be mandatorily placed as a corrective or remedial action.	Yes	NA	NA	None.
B	Applicant or employee found to have been discriminated against and who is thereby entitled to priority consideration for employment or promotion under the provisions of part 713, sec. 713.271(a)(2) or sec. 713.271(b)(2), as applicable.	No	Yes		If not selected, reasons for nonselection must be recorded.
C	Activity employee identified for reassignment involving displacement change to lower grade, or separation by RIF. Includes administrative reassignment to vacancy, within or outside competitive level, of employee whose position is abolished.	Yes, when necessary to satisfy RIF assignment right.	NA		NA
D	Activity employee scheduled for separation for failure to accept offer of functional transfer.	Yes, at current or lower grade.			Priority D applies only while still employed. After separation, apply priority J or S, as applicable.
E	Employee entitled to noncompetitive priority consideration as corrective action for failure to be given proper consideration under Air Force Merit Promotion Program (AFMPP).	No	At grade no higher than that for which denied proper consideration.		Entitlement restricted to 1 time consideration for next appropriate vacancy.
F[1]	Activity employee previously downgraded while serving in (or who was involuntarily separated from) DOD and who is thereby entitled to special consideration for repromotion. (Note: employees downgraded while serving in non-DOD agency are in category M.).	No	For all grades up to and including that from which downgraded or separated.	Priority referral supplies to all employees serviced by CPO.	Downgraded employee of another acitivity included in priority N.
G[1]	Activity employee whose position is to be downgraded to correct classification error or because of application of new or revised standards. Also employee with permanent physical disability no longer able to perform full range of duties of current position.	No	For positions at same grade, and lower grades as appropriate.	If adverse action results, effort to place must be documented and furnished employee.	None.
H	Reemployment priority list (RPL) registrant for positions at or below grade from which separated.	Yes, unless alternate selection authorized as herein explained.	May concurrently consider (when reached in priority order) and select category I, J, K, L, or M Air Force employee who is still employed; or in absence of any I, J, K, or L candidate and after consideration of all category M candidates, may concurrently consider category N and/or O candidates.	NA	Separated Air Force employee on stopper list may not be considered concurrently. Other DOD employees on stopper list may not be considered concurrently.
I	Priority 1 registrant on DOD PPP stopper list		NA		

552 552

J	Priority 2 registrant on DOD PPP stopper list	Yes, at grades for which registered. See conditions.		DOD 1400.20-1-M part 1, ch. 3 provides guidelines to CPO.	Within priorities preference is given to component employees.
K	Priority 3 registrant on DOD PPP stopper list				
L	Status quo employee in an Air Force Reserve Technician (ART) position.	Yes, at grades for which registered.		NA	This category of employee is registered in the DOD PPP as priority 3 under special provisions of DOD 1400.20-1-M.
M	Activity employee previously downgraded while serving in (or who was involuntarily separated from) non-DOD agency and who is thereby eligible for noncompetitive repromotion.	No	For all grades up to and including that from which downgraded or separated.	Priority referral applies only to positions serviced by own CPO.	None.
N[2]	Air Force employee eligible for noncompetitive inservice placement not covered by higher priority.		Consider at CPO option		NA
O[2]	Candidates eligible for competitive consideration under Air Force Merit Promotion Program.		As required and authorized by applicable merit promotion plan.	Downgraded employees from extended area of consideration must be referred before competitive eligibles.	Reasons for nonselection of downgraded employee on promotion certificate must be recorded.
P[2]	Reemployment priority list (RPL) registrants for positions at grades higher than from which separated.	No, provided any alternate selection is authorized by CSC in para 2-2, ch. 330, FPM.	Consider at CPO option. May be selected only if within reach for competitive selection under applicable merit promotion plan. See remarks.	Must be ranked with current employee merit promotion candidates.	May not be selected if currently employed AF PPP registrant available. See categories Q and R below.
Q[2]	Priority 4 registrant on DOD PPP stopper list	Yes, at grades for which registered.	Currently employed Air Force registrant must be selected before category P.	NA	None.

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Referral and selection priorities—Continued

Priority order	Category of candidate	Must be selected	Must be considered and may be selected	Conditions to be observed	Remarks
R[3]	Priority 5 registrant on DOD PPP stopper list				
S[2,3,5]	All other sources, including new appointments, transfers, and reinstatements not covered by higher priority.	No	May not be considered if priority 4 or 5 registrant available.	Requirements of AFR 40–300, par. 10 and the AFMPP concerning consideration/selection of outside candidates must be considered.	

[1]Priority F and G candidates may be considered sequentially or concurrently.

[2]Candidates in categories N through S are considered sequentially, concurrently, or independently at option of, and as determined appropriate by CPO, subject to the applicable restrictions and conditions specified for each category.

[3]Activities in foreign areas may employ locally available dependents of DOD military and civilian members ahead of categories I, J, and Q (displaced PPP registrants) unless such registrant is from within the commuting area.

[4]Activities in the Pacific area may employ any locally available applicant ahead of categories I, J, and Q displaced employees from Hawaii registered for referral to Pacific Theatre activities under the special provisions of DOD 1400.20–1–M, appendix H, par. II.

[5]Activities in Guam may employ any locally available U.S. citizen ahead of categories I, J, Q displaced registrants from outside Guam, except those registrants who last resided on, or who were recruited from Guam, and granted special consideration by OASD/M&RA memorandum dated 14 June 1974.

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§ 890.16 Procedures for filling GS–15 positions in the competitive service.

(a) *Identification of candidates.* Except for positions covered by career programs which specify an alternate method of identifying candidates, all GS–15 position vacancies in the competitive service, including those overseas, are announced Air Force-wide by the Servicing CPO. At least 18 calendar days are allowed for receipt of applications. The announcement is based on the Promotion Evaluation Pattern (PEP) prepared in consultation with the appropriate management official(s), and contains at least the following information about the vacancy:

(1) Title, series, grade, and location of position.

(2) Brief description of duties and responsibilities.

(3) Identification of the CSC qualification standards to be applied or summary of required qualifications.

(4) A statement of any special abilities, skills, knowledges, or training required.

(5) Instructions for applying, including qualifications data and any supplemental information to be submitted by applicants; complete address where applications are to be mailed; and closing date for receipt of applications.

(6) For oversea positions, a statement advising all interested applicants, including those registered in the Overseas Employment Program (OEP), to apply under the announcement.

(7) A reminder to employees previously demoted through no fault of their own to furnish information supporting their noncompetitive repromotion eligibility. This can be accomplished by including a statement substantially as follows: "If you previously held a position at the grade of this position (or comparable or higher) and were demoted or involuntarily separated from it through no fault of your own, show the title and grade of that position, the dates you held that position, the agency in which you were then serving, and the reason for your demotion or separation."

(8) A statement that the activity is an equal employment opportunity employer. Upon receipt of the vacancy announcement each civilian personnel office disseminates the information promptly by appropriate means to assure prospective candidates are afforded an opportunity to apply. Candidates are advised to file their applications through their servicing CPO which is responsible for obtaining and furnishing additional information required by the announcement. In addition, the candidate's servicing CPO furnishes all relevant information with regard to the candidate's identification and participation in the Air Force Executive Development Program as described in AFR 40–418.

(b) *Initial screening of candidate qualifications and consideration of repromotion candidates.* (1) The CPO servicing the vacancy initially reviews and screens the qualifications of applicants against the minimum qualification standards and other basic eligibility criteria. In addition, this office may tentatively rank, or rank-group candidates in broad qualification categories, against the criteria outlined in the PEP.

(2) As a part of this initial screening process, the CPO also identifies from among those who have applied from other serviced activities, all Air Force employees who have repromotion eligibility based on a previous involuntary demotion or separation. These employees are referred to the selecting official(s) for noncompetitive consideration before proceeding with a panel evaluation and ranking of candidates through the competitive process.

NOTE: Employees of the activity with repromotion eligibility are identified and referred for noncompetitive consideration in accordance with their priority as established in § 890.15 before issuance of the vacancy announcement.

(c) *Evaluation and ranking of competing candidates.* The final evaluation, ranking, and competitive certification of candidates is accomplished by a panel assembled to assess the relative qualifications of competing candidates.

(1) Establishment of Panels. Panels are established and panel appointments are made, or approved, by the Secretary of the Air Force for positions in the Office of the Secretary, by

the Functional Chiefs (DCS or Comptroller and Chiefs of comparable offices) for positions in HQ USAF and by the major commander of the parent command or the commander of a separate operating agency for other positions. When deemed necessary, these officials may request higher authority to establish the panel. Each panel is composed of at least three high grade civilian or military members, normally at GS–15 or higher grade or of equivalent rank, appointed on a permanent or ad hoc basis.

(2) Functions of the Panel: (i) The panel considers all candidates who meet minimum requirements, including those repromotion eligibles previously referred for priority consideration, and evaluates their qualifications against the ranking criteria specified in the PEP. The ranking criteria must be job-related, recognizing both the requirements of the position, and the present and future needs of the organization. The criteria must be stated in broad terms to permit evaluation of the overall qualifications of each candidate in relation to the total requirements of the position. The panel's evaluation is used to identify those top ranking candidates who, in the panel's judgment, are highly qualified, with due consideration being given to the following factors:

(*a*) Training, education, and experience;

(*b*) Supervisory appraisals;

(*c*) Pertinent awards, insofar as the qualifications demonstrated or implied by the award bear on the requirements of the position being filled; and

(*d*) Self-development accomplishments and outside activities that have significantly contributed to a candidate's qualifications for the position.

(ii) The panel normally certifies not more than the five highest ranking candidates to the selecting official(s). However, up to and including ten candidates may be certified if meaningful distinctions cannot be made to reduce the group to a smaller number.

(d) *Interviewing candidates.* Before final ranking or final selection, the panel or the selecting official(s) may need to interview the leading candidates. When this is necessary, TDY travel can be authorized for Air Force and other Federal employees as provided in the Joint Travel Regulations, vol. 2.

(e) *Selection authority.* (1) Commanders of major commands and separate operating agencies may:

(i) Authorize supervisors at any level over the position to make the selection, in which case the selection must be approved by the commander of the activity involved;

(ii) Make the selection personally; or

(iii) When deemed appropriate, request higher authority to make the selection.

(2) In the Office of the Secretary of the Air Force, selections may be made by officials designated by the Secretary. In HQ USAF, selections may be made by directors or heads of comparable or higher organizations or, when they deem it appropriate, they may request higher authority to make the selection. The HQ USAF Civilian Personnel Office (1143/DPC) issues procedures for use in the Office of the Secretary and HQ USAF.

(f) *Exceptions.* The above requirements for publication of the vacancy, Air Force-wide consideration of candidates, and panel evaluation of candidates do not apply, or are modified as specified below:

(1) When filling a GS–15 position covered by a DOD or Air Force career program which prescribes special procedures for identifying and ranking candidates;

(2) When filling a temporary position for one year or less by an authorized noncompetitive personnel action;

(3) When filling a temporary position for one year or less through competitive promotion procedures or when the upgrading of a permanent, occupied position requires competition, provided all employees within the authorized special area of consideration are identified and ranked by the panel;

(4) When a position is upgraded under circumstances permitting noncompetitive promotion of the incumbent;

(5) When management selects a previously downgraded employee eligible for noncompetitive consideration; or

(6) When management decides to fill the job by the noncompetitive reas-

signment of an Air Force employee currently serving in a GS-15 position, provided such decision is made before announcing the position. When a vacancy is announced, all interested Air Force candidates must be evaluated and ranked by the panel and selection is then restricted to those certified by the panel, unless the position must later be made available to satisfy an employee's entitlement to priority consideration or mandatory placement in the position.

PART 891—SECURITY PROGRAM

Subpart A—General

Sec.
891.0 Purpose.
891.1 Policy.
891.2 Definitions.
891.3 Responsibilities.
891.4 Establishment of boards.

Subpart B—Standard and Criteria

891.5 Standard.
891.6 Criteria.

Subpart C—Initial Processing of Cases Involving Applicants and Employees

891.7 Initial action by Office of Special Investigations.
891.8 Action by commander.
891.9 Action by Director of Special Investigations.
891.10 Action by the Central Clearance Group.

Subpart D—Miscellaneous Provisions

891.11 Reinstatement, restoration to duty or reemployment of removed employees.
891.12 Release of information.
891.13 Change in status of an employee or applicant.

AUTHORITY: Sec. 8012, 70A Stat. 488; sec. 1, 64 Stat. 476, 67 Stat. 336, secs. 1-3, 69 Stat. 624, 625; 10 U.S.C. 8012, 5 U.S.C. 3571, 7311, 7312, 7531-7533, E.O. 10450, 18 FR 2489, 3 CFR Supp., DoD Directive 5210.7, Sept. 2, 1966, 31 FR 13642, 32 CFR Part 156.

SOURCE: 34 FR 1946, Feb. 11, 1969, unless otherwise noted.

Subpart A—General

§ 891.0 Purpose.

This part prescribes policies and procedures to insure that the employment or retention in employment of any civilian officer or employee in a sensitive position within the Department of the Air Force is clearly consistent with the interests of the national security. It tells how to process cases in which the available information raises a question as to the security qualifications of civilian officers and employees, and applicants for employment.

§ 891.1 Policy.

(a) No civilian will be employed for, assigned to, or retained in employment in a sensitive position in the Department of the Air Force unless his employment, assignment, or retention is clearly consistent with the interests of the national security.

(b) Whenever there is developed or received any information indicating that the retention in employment of any officer or employee of the Air Force may not be clearly consistent with the interests of the national security, such information shall be forwarded to the Office of Special Investigations. That Office, after such investigation as shall be appropriate, will forward the complete file to the installation commander for appropriate action under § 891.8.

(c) The use of the suspension and removal procedures authorized by 5 U.S.C. 7532 will be limited to cases in which the interests of the national security are involved. Maximum use will be made of normal Civil Service removal procedures where such procedures are adequate and appropriate. (In foreign countries, normal administrative removal procedures will be used in cases involving employees and applicants who are not U.S. citizens.)

(d) The Air Force will provide every possible safeguard to make sure that an employee of the Air Force is not removed from his employment arbitrarily, or without full consideration and review of his case.

(e) No classified defense information, nor any information which might compromise investigative sources of methods or the identity of confidential informants, will be disclosed to any employee, his counsel, or representatives, or to any other person not clearly authorized to have access to such information.

(f) Nothing contained in this part will be deemed to limit or affect the responsibility and authority of the Secretary of the Air Force to reassign persons to non-sensitive positions where the interests of the national security so require, and it does not restrict the commander's authority to exclude or remove an employee from a sensitive position under normal Civil Service procedures.

§ 891.2 Definitions.

The following terms apply in this part:

(a) Secretary of the Air Force means the Secretary, the Under Secretary or an Assistant Secretary of the Air Force.

(b) National security refers to those activies which are directly related to the protection of the military, economic, and productive strength of the United States, including the protection of the Government in domestic and foreign affairs, against espionage, sabotage, subversion, and any other illegal acts which adversely affect the national defense.

(c) Sensitive position is any position within the Department of the Air Force the occupant of which could bring about, by virtue of the nature of the position, a material adverse effect on the national security.

(d) Officially assigned position means the regularly assigned position occupied by the employee. It does not mean a position to which an employee may be detailed, for example, as an interim security measure.

§ 891.3 Responsibilities.

In carrying out the objectives and requirements of the security program, the following responsibilities are assigned:

(a) Overall supervision and responsibility for the program are vested in The Administrative Assistant to the Secretary of the Air Force, through the Deputy for Security Programs.

(b) The Deputy Chief of Staff, Personnel, through the Director of Civilian Personnel, is responsible for the general administration of the program and will continually appraise the adequacy of the program from the standpoint of effective personnel administration. The Director of Civilian Personnel will provide support for the Central Clearance Group.

(c) Each commander is responsible for taking actions necessary to carry out the policies in this part, and for processing all cases involving civilian officers, employees and applicants under his command. He will also provide appropriate support for any security hearing board convened at his installation. Where arrangements for servicing and cross-servicing of civilian personnel are required, the Air Force servicing commander will, when appropriate, provide advice and assistance and arrange for support for a security hearing board.

(d) The Inspector General, USAF, is responsible for continually appraising the adequacy of the program from the standpoint of effective security protection.

§ 891.4 Establishment of boards.

(a) The Central Security Board, established in the Department of the Air Force, is redesignated the Central Clearance Group. The Group will be composed of at least three members appointed by order of the Secretary of the Air Force who have been selected on the basis of maturity and demonstrated good judgment. One will be nominated by the Deputy Inspector General, one by the Director of Civilian Personnel, and one by The Judge Advocate General of the Air Force. One of the members will be appointed to serve as Chairman. Any three members of the Group will constitute a quorum. The Group will perform the functions described in this part, and such other functions as may be directed by the Secretary of the Air Force or the Deputy for Security Programs.

(b) Each Security Hearing Board is established on an Ad Hoc basis by the Secretary of the Air Force, and the Board is the agency authority duly constituted for the purpose of granting an employee a hearing under 5 U.S.C. 7532(c)(C). The Board will be composed of not less than three impartial and disinterested members nominated as stated in this paragraph, and appointed by the Secretary of the Air Force all or a majority of whom

shall be civilians. One member shall be designated as Chairman and, as such, is authorized to administer oaths. A commander of an installation maintaining a central civilian personnel officer will nominate at least three persons whom he selects from a roster maintained by the appropriate regional office of the Civil Service Commission. Those nominated will be military or civilian officers or employees of any of the DoD components, other than the Air Force. Their names will be sent to the Central Clearance Group. The commander will recommend one of the persons for appointment as chairman. Any three or more members present will constitute a quorum, provided that a majority of those are civilian. Each Board will hear and consider cases referred to it in accord with this part.

(c) The Security Review Board is established in the Office of the Secretary of the Air Force to review and make recommendations on all cases submitted to it in accordance with this part. The members of the Board will be appointed under the authority of the Secretary of the Air Force. A majority of the members considering any one case will be civilians.

(d) The Director of Civilian Personnel will provide an Executive Secretary, Civilian Personnel Security Program, and a Secretariat. The Executive Secretary will perform duties as prescribed in this part and administrative duties as directed by the Secretary, the Deputy for Security Programs, or the Central Clearance Group.

Subpart B—Standard and Criteria

§ 891.5 Standard.

The standard for employment and retention in employment is that, based on all the available information, the employment or retention in employment of an individual is clearly consistent with the interests of the national security.

§ 891.6 Criteria.

(a) In the application of standard mentioned in § 891.5, consideration will be given to, but not limited to, the following activities and associations, whether current or past. As the following activities and associations are of varying degrees of seriousness, the ultimate determination must be made on the basis of an overall commonsense evaluation of all the information in a particular case.

(1) Depending on the relation of the employment to the national security:

(i) Any behavior, activities, or associations which tend to show that the individual is not reliable or trustworthy.

(ii) Any deliberate misrepresentations, falsifications, or omissions of material facts.

(iii) Any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess drug addiction, or sexual perversion.

(iv) Any illness, including any mental condition, of a nature which in the opinion of competent medical authority may cause significant defect in the judgment or reliability of the employee, with due regard to the transient or continuing effect of the illness and the medical findings in such case.

(v) Any facts which furnish reason to believe that the individual may be subjected to coercion, influence, or pressure which may cause him to act contrary to the best interests of the national security.

(2) Commission of any act of sabotage, espionage, treason, or sedition, or conspiring, aiding, or abetting another to commit or attempt to commit any act of sabotage, espionage, treason, or sedition.

(3) Establishing or continuing a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, or with an espionage or other secret agent or representative of a foreign nation, or any representative of a foreign nation whose interests may be inimical to the interests of the United States or with any person who advocates the use of force or violence to overthrow the Government of the United States or the alteration of the form of Government of the United States by unconstitutional means.

(4) Advocacy of use of force or violence to overthrow the Government of the United States, or of the alteration of the form of Government of the

United States by unconstitutional means.

(5) Membership in, affiliation, or sympathetic association with, any foreign or domestic organization, association, movement, group, or combination of persons which is totalitarian, Fascist, Communist, or subversive, or which has adopted, or shows a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights under the Constitution of the United States, or which seeks to alter the form of Government of the United States by unconstitutional means. (These include, but are not limited to, those organizations, movements, or groups officially designated by the Attorney General of the United States pursuant to Executive Order 10450.)

(6) Intentional, unauthorized disclosure to any person of classified information, or of other information disclosure of which is prohibited by law.

(7) Performing or attempting to perform his duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States.

(8) Participation in the activities of an organization established as a front for an organization referred to in paragraph (a)(5) of this section, when his personal views were sympathetic to the subversive purposes of such organizations. (See Internal Security Act of 1950 as amended (50 U.S.C. 782) for a definition of Communist-front organizations.)

(9) Participation in the activities of an organization with knowledge that it has been infiltrated by members of subversive groups under circumstances indicating that the individual was part of, or sympathetic to, the infiltrating element or sympathetic to its purposes.

(10) Participation in the activities of an organization, referred to in paragraph (a)(5) of this section, in a capacity where he would reasonably have had knowledge of the subversive aims or purposes of the organization.

(11) Sympathetic interest in totalitarian, Fascist, Communist, or similar subversive movements.

(12) Sympathetic association with a member or members of an organization referred to in paragraph (a)(5) of this section. (Ordinarily, this will not include chance or occasional meetings, nor contacts limited to normal business or official relations.)

(13) Currently maintaining a close, continuing association, with a person who has engaged in activities or associations of the type referred to in paragraphs (a) (2) through (11) of this section. A close continuing association may be deemed to exist if the individual lives with, frequently visits, or frequently communicates with, such person.

(14) Close continuing association of the type described in paragraph (a)(13) of this section, even though later separated by distance if circumstances indicate that renewal of the association is probable.

(15) The presence of a spouse, parent, brother, sister, offspring, or any person with whom a close bond of affection exists in a nation whose interests may be inimical to the interest of the United States or in satellites or occupied areas of such a nation, under circumstances permitting coercion or pressure to be brought on the individual through such persons.

(16) Willful violation or disregard of security regulations.

(17) Acts of a reckless, irresponsible, or wanton nature which indicate such poor judgment and instability as to suggest that the individual might disclose classified defense information to unauthorized persons, or otherwise assist such persons, whether deliberately or inadvertently, in activities inimical to the security of the United States.

(18) Refusal by the individual, upon the ground of constitutional privilege against self-incrimination, to testify before a congressional committee or Federal or State court, regarding charges of his alleged disloyalty or other misconduct relevant to his security eligibility.

(19) Any excessive indebtedness, recurring financial difficulties, unexplained affluences, or repetitive absences without leave, which furnish reason to believe that the individual may act contrary to the best interests of national security.

(20) Refusal by the individual on constitutional or other grounds, or intentional failure to complete required security forms or personal history statements, or otherwise failing or refusing, in the course of investigation, interrogation, or hearing, to answer any pertinent question regarding the matters described in paragraphs (a) (1) through (19) of this section.

NOTE: 1. Designations of organizations by the Attorney General of the United States are made solely to guide departments and agencies in the discharge of their obligations under Executive Order 10450. An individual's membership in, affiliation with, or sympathetic association with, any organization, whether specifically designated in connection with the Executive order or not, is but one of the factors which will be considered in making the security determination. In evaluating memberships, affiliations or associations with organizations, consideration will be given to the individual's statements concerning the reasons and circumstances which led to his joining or participating or otherwise showing a sympathetic interest in the activities of the organization involved, and his knowledge of the purposes of the organization.

NOTE: 2. In addition to membership in, affiliation with, or sympathetic association with, an organization referred to in paragraph (a)(5) of this section, consideration in making a determination will also be given to membership the individual may have or may have held in honor societies, fraternal organizations, civic organizations, charitable organizations, and any other organizations which reflect favorably upon the individual's character, citizenship, civil interest, and standing within the community.

(b) Security determinations cannot be made in the abstract. Instead, the security determination in a particular case must be made in regard to the officially assigned position of the employee, or, in the case of the applicant, the particular position which he would occupy if employed. In addition, no general rules can be laid down which would resolve each individual case automatically. Consideration will be given to the employee's habits, activities, attitudes, associations, trustworthiness, reliability, and discretion and their bearing on the question of whether, because of his access to Government installations, information, or material, by virtue of his employment in the sensitive position involved, he might, either intentionally or inadvertently, disclose classified information to unauthorized persons, or otherwise act against the security interests of the United States. In making the security determination, the nature of the duties of the employee's officially assigned position (or the position to which applicant would be assigned) and the opportunity afforded him to have access (authorized or unauthorized) to classified defense information or to act to the detriment of national security must be evaluated together with all other available information concerning the employee. After this evaluation, a common-sense decision must be rendered on the ultimate question in each case: Is the employment or retention employment clearly consistent with the interests of the national security?

Subpart C—Initial Processing of Cases Involving Applicants and Employees

§ 891.7 Initial action by the Office of Special Investigations.

All investigative reports will be furnished the commander concerned. When derogatory information falls within the meaning of paragraph (a) of § 891.6, the Office of Special Investigations will send a copy of its transmittal letter to the Central Clearance Group. If it is the opinion of the Director of Special Investigations that immediate suspension of an employee is necessary in the interests of the national security, he will forward a copy of the investigative file to the Central Clearance Group, with his recommendations and reasons therefor, prior to submitting it to the commander.

§ 891.8 Action by commander.

(a) *All cases.* (1) The employing activity will review the investigative reports to determine whether they contain derogatory information, and, if so, if the information is of a suitability nature as defined in Chapter 731, Federal Personnel Manual, or is of a security nature as defined in Chapter 732, Federal Personnel Manual, or both. The employing activity will, if possible, make a decision as to employing

or retaining in employment on the basis of the suitability information.

(b) *Cases involving applicants.* (1) In no case will the employing activity deny an applicant employment, or tell him that he is denied employment, for security reasons, without obtaining prior approval from the Central Clearance Group. The fact that the employing activity may have an investigative file containing information falling within paragraph (a) of § 891.6 does not preclude the employing activity from denying an applicant employment in accordance with normal Civil Service procedures for reasons other than security reasons.

(2) In no case will an employing activity tell an applicant that he is "hired subject to a security investigation," or, "hired subject to a favorable security determination," or words to that effect.

§ 891.9 Action by Director of Special Investigations.

The Director of Special Investigations will submit each case received, together with his recommendation, and reasons therefore, to the Central Clearance Group. In each case in which the commander or the Director of Special Investigations makes a recommendation unfavorable to the employee or applicant, and in each case in which the derogatory information is of a security nature, the Director will also provide a summary of the case file. The entire case file, including all information developed through investigation, will be transmitted with the recommendation.

§ 891.10 Action by the Central Clearance Group.

(a) The Central Clearance Group will review each case it receives under § 891.9 to insure compliance with the policies and procedures contained in this part. The Group is authorized to request the Director of Special Investigations to conduct interviews of employees, or to conduct additional investigations with respect to any case under consideration.

(b) The Group will submit its recommendations in any case to the Deputy for Security Programs. It may, in appropriate cases, recommend other administrative action, such as initiation for removal proceedings under normal Civil Service Procedures instead of under this part. In each case in which a sensitive position is involved, and the individual concerned is not denied employment or removed from employment in that position through other procedures, the Group will make a security determination in the light of the standard and criteria of Subpart B of this part. The Deputy for Security Programs may authorize the Executive Secretary, or the Chairman of the Group, to closeout cases favorably to an employee or applicant, if both the employing activity and the Director of Special Investigations have made recommendations favorable to the employee or applicant concerned. The Group, through its Executive Secretary, will notify the employing activity of the decision in each case, which, whenever appropriate, will include instructions concerning the security clearance of the applicant or employee.

(c) If the Group determines, under the standard and criteria in subpart B of this part, that, based on all the available information, the employment or retention in employment of the applicant or employee is clearly consistent with the interests of national security, it will recommend to the Deputy for Security Programs that action favorable to the employee be taken, setting forth its determination and reasons therefor. Upon approval of such favorable determination, the Group will so notify the employing activity and, whenever appropriate, the notice will state that it constitutes the employee's or applicant's security clearance for access to specific categories of classified defense information necessary for his officially assigned position and to no other information.

(d) If the Group determines that the available information does not warrant a determination under Subpart B of this part favorable to an applicant, it may recommend to the Deputy for Security Programs that the Group permit the applicant to have an option either to appear personally and informally before a member or designee of the Group or to respond to written interrogatories to be furnished to the

applicant by the Group. It is Air Force policy that an applicant being considered for a sensitive position should, whenever appropriate, have an opportunity to explain or refute derogatory security information (as distinct from derogatory suitability information) developed in an investigation before being rejected or nonselected on security grounds and that the Central Clearance Group will perform this function. The purpose of this policy is to prevent errors which might otherwise result from mistakes in identity or mitigating circumstances which are unknown to the prospective employing activity. In the event the Central Clearance Group determines that, based on all available information, the employment of the individual is not clearly consistent with the interests of national security, it will recommend to the Deputy for Security Programs that the applicant be denied employment, setting forth its determination and the reasons therefor. After the final Secretarial decision has been made, the Group will notify the employing activity of it.

Subpart D—Miscellaneous Provisions

§ 891.11 Reinstatement, restoration to duty or reemployment of removed employees.

(a) Any person who is removed from employment in the Department of Defense under 5 U.S.C. 7532, or any other security or loyalty program relating to officers or employees of the government, shall not be reinstated or restored to duty or reemployed in the Department of Defense unless the Secretary of Defense, or his designee for that purpose, finds that such reinstatement, restoration, or reemployment is clearly consistent with the interests of the national security, which finding shall be made a part of the record.

(b) Any person who is removed from employment in any other agency or department of the Government under 5 U.S.C. 7532, or any other security or loyalty program of the government, shall not be employed in the Department of Defense unless the Civil Service Commission determines that such person is eligible for employment and the person's employment is approved by the Secretary of Defense, or his designee for that purpose, which determination and approval shall be made a part of the record.

§ 891.12 Release of information.

No information concerning the status of any security case will be disclosed to any person outside the Department of the Air Force or to any other person not requiring the information in the course of his official military or other governmental duties unless approval is obtained through the Executive Secretary. Direct communication by the commanders and boards concerned with the Executive Secretary is authorized.

§ 891.13 Change in status of an employee or applicant.

Immediate action will be taken to notify the Director of Civilian Personnel, Headquarters, USAF, Attention: Central Clearance Group, of any change, such as separation, reassignment, or other change in the position or condition of employment of an employee, or availability of an applicant whose case is being processed. The Central Clearance Group will also be notified if an employee, whose case has been processed under this part and closed favorably to him, is later separated for any reason. Commanders will establish local controls to assure that investigative reports concerning any employee who is separated, or concerning any applicant who is not selected for employment, are forwarded to the Director of Special Investigations, Headquarters USAF, immediately.

PART 892—PART-TIME CAREER EMPLOYMENT PROGRAM

Sec.

892.0 Purpose.
892.1 Policy and objectives.
892.2 Definitions.
892.3 Applicability.
892.4 Exceptions to scheduled hours of work.
892.5 Restrictions.
892.6 Responsibilities.
892.7 Employment ceiling.
892.8 Fringe benefits.

Sec.

892.9 Part-time employment progress report.

AUTHORITY: 5 U.S.C. 3401.

SOURCE: 47 FR 13521, Mar. 31, 1982, unless otherwise noted.

§ 892.0 Purpose.

This part states the basic policy and key principles of the Air Force Part-Time Career Employment Program, and assigns responsibilities to management officials, supervisors, and Central Civilian Personnel Officers. It implements the Federal Employees Part-Time Career Employment Act of 1978, Pub. L. 95-437, by establishing a continuing program in the Department of the Air Force to provide permanent part-time employment opportunities.

§ 892.1 Policy and objectives.

It is the policy of the Air Force to:

(a) Provide part time career employment opportunities to the maximum extent, consistent with agency resources and mission requirements for positions GS-1 through GS-15, and equivalent grades in other pay systems.

(b) Expand the number and scope of permanent part-time employment opportunities to include professional, administrative, technical, clerical, crafts, trades, and other occupations.

(c) Provide an additional management device to help achieve equal employment objectives.

(d) Encourage managers at all levels to eliminate any artificial constraints which inhibit expansion of part-time employment.

§ 892.2 Definitions.

(a) *Part-time career employment.* Regularly scheduled work of from 16 to 32 hours per week performed by an employee who has an appointment in tenure group I or II, and who becomes employed on such part-time basis on or after April 8, 1979.

(b) *Tenure group I.* Applies to employees in the competitive service under career appointments who are not serving probation, and permanent employees in the excepted service under excepted appointments without time limitations.

(c) *Tenure group II.* Applies to career employees in the competitive service serving probation, career-conditional employees and employees in the excepted service serving trial periods, or whose tenure is equivalent to career-conditional in the competitive service.

(d) *Temporary employment.* For the purpose of this program, temporary employment means employment that is time-limited.

(e) *Intermittent Employment.* Employment on an irregular basis without a prescheduled tour of duty.

§ 892.3 Applicability.

(a) The provisions of this part apply to all civilian occupations and authorized positions in grades GS-15 or below and equivalent grades in other pay systems, and to part-time career employees in tenure groups I and II, unless excluded under one of the following:

(1) Positions requiring a mixed tour of duty. A mixed tour of duty consists of annually recurring periods of full-time, part-time, or intermittent service.

(2) Temporary or intermittent employees. Employees who are in a temporary or intermittent appointment status as defined in § 892.2. The exclusion from this program should not be interpreted as a prohibition on the employment of intermittent or temporary part-time employees.

(3) Permanent part-time employees who have continuous service on such a schedule beginning prior to April 8, 1979 are not affected by these provisions.

(b) A negotiated agreement which establishes the number of hours of employment a week takes precedence over this part until such an agreement is renegotiated.

(c) Positions in foreign areas when filled by overseas limited or excepted indefinite appointments.

§ 892.4 Exceptions to scheduled hours of work.

(a) Part-time positions may be established with a scheduled tour of duty of less than 16 hours a week, if necessary to carry out the mission. No exception

may be made to employ part-time workers regularly for more than 32 hours per week.

(b) Temporary increase of hours above 32 hours is permitted for a limited time to meet workload or training needs; however, the employee's schedule must remain at 16 to 32 hours per week.

§ 892.5 Restrictions.

No positions occupied by a full-time employee will be abolished in order to make the duties of such positions available to be performed on a part-time basis; nor will any full-time employee be required to accept part-time employment as a condition of continued employment. This does not preclude offering a part-time vacant position in lieu of separation during reduction-in-force (RIF) when no full-time offer is available.

§ 892.6 Responsibilities.

(a) *Office of Civilian Personnel Operations (OCPO) Responsibilities.* Headquarters USAF/MPK has overall reponsibility for administering the part-time career employment program through the Office of Civilian Personnel Operations. OCPO's responsibilities are to:

(1) Establish and publish annual goals to expand part-time opportunities in coordination with manpower and Equal Employment Opportunity (EEO) program officials, and in consideration of projections by major commands (MAJCOMs) and comparable organizations with Directors of Civilian Personnel.

(2) Review goals and time tables for part-time employment developed by the MAJCOMs.

(3) Prepare semiannual Air Force-wide reports on the part-time employment program for the Office of Personnel Management.

(4) Review activity programs during regular civilian personnel management surveys.

(5) Provide advice and assistance, as necessary or requested, on program development.

(6) Designate a member of the OCPO staff to serve as the Air Force part-time program coordinator.

(b) *Major Command and Comparable Organization Responsibilities.* (1) Establish and publish goals consistent with mission needs and occupational mix.

(2) Provide consolidated independent reporting activity semiannual reports to the OCPO on program accomplishments.

(3) Identify and eliminate command-imposed procedures or policies which impede expansion of part-time career opportunities.

(4) Designate a member of the MAJCOM staff to serve as the focal point within the command headquarters on this program.

(5) Submit consolidated reports to OCPO. (See § 892.9.)

(c) *Installation Responsibilities.* (1) Commanders with assigned central civilian personnel offices, through civilian personnel officers, develop local part-time programs that implement established goals and which are in accordance with AFR 40-112.

(2) Review position vacancies as they arise to determine the feasibility of filling on a career part-time basis. Criteria to be used when making determinations may include: mission requirements; work load fluctuations; employment ceilings and budgetary considerations; applicant and current employee interests; and other factors based on current needs and circumstances.

§ 892.7 Employment ceiling.

Effective October 1, 1980, for all employment ceilings, numbers of permanent part-time employees (regardless of the length of scheduled workweek) will be counted as a fraction. This is determined by dividing 40 hours into the number of hours of the part-time employee's regularly scheduled workweek during the last pay period of the reporting period.

§ 892.8 Fringe benefits.

Permanent part-time employees are eligible for retirement and health benefits and life insurance.

(a) *Retirement.* Retirement benefits are computed in the same way for all employees. Annuities are based on an employee's length of service and the

highest average annual pay for any three consecutive years.

(b) *Life Insurance.* Permanent part-time employees are eligible for the Federal Employees Group Life Insurance Program. The actual amount of insurance for which an employee is eligible is based on annual salary, but in any case not less than $10,000. To compute annual salary, multiply hours scheduled to work during a leave year by hourly pay rate.

(c) *Health Benefits.* Permanent part-time employees are eligible to participate in the Federal Employees Health Benefit Program. The coverage is the same as that provided for full-time employees, but the employee cost for the premiums is greater for people who became part-time employees on or after April 8, 1979. For these employees the government contribution is prorated according to the number of hours the part-timer is scheduled to work. For example, a part-time employee scheduled for 20 hours a week will pay the employee share of the premiums plus one-half the government's share. Part-time employees, onboard before April 8, 1979, can continue to receive the same government contributions as full-time employees for as long as they remain part-time without a break in service.

(d) *Annual leave.* Permanent part-time employees earn annual leave on a prorated basis depending upon the employee's leave category:

(1) Leave Category 1 (employees with less than 3 years of service). One hour for each 20 hours of work.

(2) Leave Category 2 (employees with 3 but less than 15 years of service). One hour for each 13 hours of work.

(3) Leave Category 3 (employees with 15 or more years of service). One hour for each 10 hours of work.

NOTE: Part-time employment status does not affect the 240-hour maximum amount of annual leave which may be carried over into the next leave year.

(e) *Sick Leave.* Permanent part-time employees earn sick leave at the rate of 1 hour for every 20 hours in pay status.

(f) *Leave-Without-Pay (LWOP).* LWOP is charged in the same way as for full-time employees.

(g) *Court Leave.* Court leave is charged in the same way as for full-time employees.

(h) *Military Leave.* Permanent part-time employees are granted military leave on a pro-rated basis. The rate of accrual is determined as a percentage of 15 days by dividing 40 into the number of hours in the regularly scheduled workweek during that fiscal year.

(i) *Holidays.* Part-time employees observe holidays, if the holidays fall on regularly scheduled workdays.

[47 FR 13521, Mar. 31, 1982, as amended at 47 FR 16780, Apr. 20, 1982]

§ 892.9 Part-time employment progress report.

(IRCN 0218-OPM-SA) Semiannual reports covering the 6 months ending 31 March and 30 September are required. OCPO/MPKM must provide these reports to the Office of Personnel Management on 15 May and 15 November, respectively. The format for these reports is provided in FPM Bulletin 340-6. To enable OCPO/MPKM to prepare this report, MAJCOMs and comparable organizations with Directors of Civilian Personnel must get information from their central civilian personnel office (CCPOs) and forward consolidated reports to OCPO/MPKMM to arrive not later than 20 April and 20 October of each year.

SUBCHAPTER K—MILITARY TRAINING AND SCHOOLS

PART 901—APPOINTMENT TO THE UNITED STATES AIR FORCE ACADEMY

Sec.

901.0 Purpose.

Subpart A—Appointment Policies and Requirements

901.1 General policy.
901.2 Statutory authority.
901.3 Appointment vacancies.
901.4 Sources of nomination.
901.5 Basic eligibility requirements.
901.6 Medical requirements for admission.
901.7 Academic examination requirements.
901.8 Physical aptitude examination requirement.
901.9 Precandidate evaluation by the USAF Academy.

Subpart B—Nomination Requirements and Procedures

901.10 Notice of nomination.
901.11 Congressional, District of Columbia, and United States Possessions.
901.12 Regular (competitive).
901.13 Reserve (competitive).
901.14 Presidential (competitive).
901.15 Vice Presidential.
901.16 Children of deceased or disabled veterans and children of military or civilian personnel in a missing status (competitive).
901.17 Honor Military and honor Naval schools—college or university AFROTC—high school AFJROTC (competitive).
901.18 Children of Congressional Medal of Honor recipients.
901.19 Citizens of the American Republics and the Republic of the Philippines.
901.20 Notification of change of address or station assignment.
901.21 Supply of forms.

Subpart C—Cadet Appointments

901.22 Obligations of cadet appointment.
901.23 Cadet's oath of allegiance.

AUTHORITY: 10 U.S.C. 903, 8012, except as otherwise noted.

SOURCE: 44 FR 56930, Oct. 3, 1979, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation 53-10, July 9, 1979.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells memers of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 901.0 Purpose.

This part explains the methods of application and the requirements and procedures for the appointment of young men and women to the United States Air Force Academy.

NOTE: This regulation is affected by the Privacy Act of 1974. The systems of records prescribed in this regulation are authorized by 10 U.S.C., chapter 903; and 10 U.S.C. 8012. Each form that is subject to the provisions of AFR 12-35, paragraph 30, and is required by this regulation, contains a Privacy Act Statement either incorporated in the body of the document or in a separate statement accompanying each such document.

Subpart A—Appointment Policies and Requirements

§ 901.1 General policy.

Persons who are eligible for nomination to the Air Force Academy are encouraged to apply in each category in which they are eligible.

§ 901.2 Statutory authority.

This part is based on statutory authority contained in 10 U.S.C., chapter 903.

§ 901.3 Appointment vacancies.

By law, specific authorities may nominate eligible applicants for appointment vacancies at the Academy.

§ 901.4 Sources of nomination.

(a) United States Senators and Representatives.

(b) Resident Commissioner of Puerto Rico; Governor of Puerto Rico; Governor of the Panama Canal Zone; Governor of American Samoa; Delegate in Congress from Guam; Delegate in Congress from the Virgin Islands; and the Delegate to the House of Representatives from the District of Columbia.

(c) Air Force enlisted Regular competitive category.

(d) Air Force enlisted Reserve competitive category.

(e) Presidential competitive category.

(f) Vice-Presidential category.

(g) Children of deceased or disabled veterans and children of military or civilian personnel in missing status competitive category.

(h) Honor military and honor naval schools, Air Force Reserve Officer Training Corps (AFROTC), and Air Force Junior Reserve Officer Training Corps (AFJROTC) competitive category.

(i) Children of Congressional Medal of Honor recipients.

(j) Citizens of the American Republics and the Philippines (designated to receive instruction under 10 U.S.C. 9344 and 9345.

§ 901.5 Basic eligibility requirements.

Each applicant must meet the following requirements for eligibility:

(a) *Age.* Must be at least 17 and not have passed the 22nd birthday on July 1 of the year of entry into the Academy.

(b) *Citizenship.* Except for sources covered by § 901.4(j), the applicant must be a citizen of the United States. If an applicant is a citizen by naturalization, he or she must substantiate citizenship. Proof of citizenship should be addressed to the Director of Cadet Admissions (USAFA/RRS, USAF Academy CO 80840). Facsimiles or copies, photographs or otherwise, will not be made of naturalization certificates under any circumstances, as stated in 18 U.S.C. 1426(h).

(c) *Domicile.* If nominated by an authority designated in § 901.4 (a) or (b), the applicant must be domiciled within the constituency of such authority.

(d) *Moral character.* Must be of highest moral character. Commanders will furnish information to USAFA/RRS, USAF Academy CO 80840, on any military applicant or nominee whose official records indicate questionable background as follows:

(1) Applicant is or has been a conscientious objector. In this case, an affidavit is required stating that such beliefs and principles have been abandoned so far as they pertain to willingness to bear arms and to give full and unqualified military service to the United States.

(2) Any facts that indicate the applicant's appointment may not be consistent with the interests of national security.

(3) Conviction by court-martial for other than a "minor offense" (MCM, 1969, revised edition, paragraph 128b, page 26-1) or conviction of a felony in a civilian court.

(4) Elimination from any officer training program or any preparatory school of the Army, Navy, or Air Force academies for military inaptitude, indifference, or undesirable traits of character. This includes any person who resigned in the face of impending charges or who was eliminated by official action.

(5) Habitual intemperance and drug abuse. (AFR 30-2 will be consulted when information on drug experimentation or use becomes known.)

(6) Any behavior, activity, or association tending to show that the applicant is of questionable moral character or reputation.

(e) *Marital status.* Applicant must be unmarried. (Any cadet who marries will be discharged from the Academy.)

(f) *Dependents.* Applicant must not have a legal obligation to support a child or children or any other person.

NOTE: For the purpose of this regulation, children are defined as the natural children of a parent, and adopted children whose adoption proceedings were initiated prior to their 15th birthday.

§ 901.6 Medical requirements for admission.

Each candidate must meet the physical requirements outlined in AFRs 160-43 and 160-13.

§ 901.7 Academic examination requirements.

Each candidate must take either the College Board admission testing program (ATP) or the American College testing program tests (ACT).

(a) College Board Admission Testing Program:

(1) A candidate who elects to use the ATP tests must take the scholastic aptitude tests (SAT).

(2) The candidate is encouraged, but not required to take achievement tests.

(i) English Composition.

(ii) Level 1 (Standard) Mathematics or Level II (Intensive) Mathematics. (Level I recommended for candidates without advanced high school mathematics.)

(3) *Makeup examination.* A makeup administration of College Board admission testing program tests is held by examining centers at a time to be determined by USAFA/RRS. If, for some valid reason, candidates are unable to take the tests on the regular testing dates, they may request authorization from USAFA/RRS to take them on the special makeup date. Supplies and instructions are furnished by USAFA/RRS.

(b) *American College Testing Program Tests.* Candidates who elect to use the ACT tests must take the complete battery of tests: English, mathematics, social sciences, and natural sciences.

§ 901.8 Physical aptitude examination requirement.

Physical aptitude examination consists of four exercises designed to measure coordination, strength, endurance, speed, and agility. A list of test items is included in the USAFA catalog.

§ 901.9 Precandidate evaluation by the USAF Academy.

The Air Force Academy conducts a precandidate evaluation program as the first step in the admissions process and as an aid to Members of Congress in screening their applicants.

(a) Once an individual expresses an interest in seeking a nomination to a Member of Congress, a congressional assistant sends the applicant a precandidate card made available by the Air Force Academy.

(b) The applicant completes the card and mails it to the Academy. The Academy, in turn, sends the applicant a packet of information, including DD 1908, Service Academies Precandidate Questionnaire. The applicant completes this form and sends it to the Academy.

(c) The Academy evaluates DD 1908, and the information is made available to congressional offices. Such information gives the Member of Congress an indication of the applicant's potential for qualifying for admission; it does not, however, reflect the applicant's final admission status. It is intended only to aid the Members of Congress in selecting their best qualified applicants for nomination.

(d) Individuals whose evaluations reflect a weakness will be informed of their deficiencies and encouraged to submit additional test scores or information in an effort to meet the minimum criteria. Individuals who receive a nomination will be given admission processing instructions, when there is a precandidate questionnaire on file in the admissions office which indicates they have the potential to qualify for admission.

Subpart B—Nomination Requirements and Procedures

§ 901.10 Notice of nomination.

The Director of Cadet Admissions, USAFA/RRS, notifies military applicants of their eligibility or ineligibility for nomination. If eligible for nomination, USAFA/RRS sends them a precandidate questionnaire. If the precandidate questionnaire indicates they have the potential to qualify for admission to the Academy or the Preparatory School, USAFA/RRS sends the individual a candidate kit which includes: DD Forms 1867, Candidate Personnel Data Record; 1868, Candidate Activities Record; and 1875, Request for Secondary School Transcript, and complete processing instructions.

§ 901.11 Congressional, District of Columbia, and United States Possessions.

(a) A U.S. citizen domiciled in one of the 50 States may apply directly to the United States Senators of his or her State, and the Representative of his or her congressional district. In addition:

(1) Persons domiciled in the District of Columbia apply to the Delegate to the House of Representatives from the District of Columbia.

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(2) Persons domiciled in Puerto Rico apply to the Resident Commissioner. Persons who are natives of Puerto Rico also may apply to the Governor.

(3) Children of civilians residing in the Panama Canal Zone, or children of civilian employees of the U.S. Government and the Panama Canal Company residing in the Republic of Panama, apply to the Governor of the Panama Canal Zone.

(4) Residents of American Samoa apply to the Governor.

(5) Residents of the Virgin Islands and Guam apply to their respective Delegates to Congress.

(b) Congressional nominations are submitted by the nominating authorities between May 1 and January 31 for the class entering the following summer.

(1) Applications to the nominating authorities should be sent early in the nominating period. A suggested letter format is included in the USAFA catalog and the Admissions Guide which accompanies the precandidate questionnaire.

(2) All inquiries concerning status of applications should be sent to the nominating authority.

(c) The nominating authority forwards DD Form 1870, Nomination for Appointment to the United States Military Academy, Naval Academy, Air Force Academy, (used only by sources listed in § 901.4 (a), (b), and (f) for each Air Force Academy nominee, through HQ USAF/MPPAB, Washington, D.C. 20330, to USAFA/RRS, USAF Academy, Colorado 80840.

§ 901.12 Regular (competitive).

Appointments to fill vacancies from this category are made from candidates in order of merit. Applications must be submitted no later than January 31 for the class entering the following summer.

(a) Any enlisted member of the Regular component of the Air Force may apply for nomination. Selectees must be in active enlisted status when appointed as cadets.

(b) A Reserve commissioned officer on extended active duty may apply for vacancies in the Regular military category. If selected, such candidates must have their commissioned officer status terminated and be enlisted before appointment as Air Force cadets. If a cadet in this category is separated without prejudice and under honorable conditions from the Air Force Academy, he or she may apply for reappointment as a commissioned officer.

(c) A regular applicant arranges to have his or her high school transcript submitted to the Director of Cadet Admissions, USAFA/RRS, and completes AF Form 1786, Application for Appointment to the United States Air Force Academy Under Quota Alloted to Enlisted Members of the Regular and Reserve Components of the Air Force, and submits it to his or her immediate commander who:

(1) Determines if the applicant meets the basic eligibility requirement shown in § 901.5 of this part. If disqualified, the application is returned and the applicant is informed of the reason.

(2) Forwards by first indorsement AF Form 1786 to USAFA/RRS, USAF Academy, Colorado 80840. The indorsement must include a complete comprehensive statement of the applicant's character, ability and background, plus the following statement: "Statements contained in this application regarding component, length of service, and date of birth have been verified from official records."

(3) Advises the Consolidated Base Personnel Office (CBPO) to place the airman in assignment availability code (AAC) 05. Applicants who are not selected are removed from AAC 05 when USAFA/RRS notifies the CBPO of nonselection.

§ 901.13 Reserve (competitive).

Appointments to fill vacancies from this category are made from candidates in order of merit. Applications must be submitted no later than January 31 for the class entering the following summer.

(a) Any enlisted member of the Air Force Reserve or the Air National Guard of the United States (ANGUS) may apply for nomination.

(b) A reserve commissioned officer who satisfactorily completes 1 year of service in an Active Reserve assign-

ment by July 1 of the year in which admission is sought may apply for vacancies in the Reserve military category. If selected, such candidates must have their commissioned officer status terminated and be in the Air Force Reserve before appointment as Air Force Academy cadets. Cadets in this category who are separated without prejudice, and under honorable conditions, from the Air Force Academy, may apply for reappointment as a commissioned Reserve officer.

(c) A Reserve category applicant arranges to have his or her high school transcript submitted to USAFA/RRS; completes AF Form 1786; and submits it to his or her organization commander. The organization commander processes the application as outlined in § 901.12(c). A Reserve applicant is not placed on active duty to be processed for nomination or appointment to the Air Force Academy.

§ 901.14 Presidential (competitive).

(a) The child of a Regular or Reserve member of the Armed Forces of the United States is eligible for nomination if:

(1) The parent is on active duty and has completed 8 years of continuous active duty service (other than for training) by July 1 of the year that the candidate would enter the USAF Academy; or

(2) The parent was retired with pay or was granted retired or retainer pay (children of Reservists retired while not on active duty status are ineligible); or

(3) The parent died after retiring with pay or after being granted retired or retainer pay (children of deceased Reservists who were retired while not on active duty status are ineligible); and

(4) The applicant does not meet the eligibility requirements for the children of deceased or disabled veterans (CODDV) appointment category. (By law, a person eligible for appointment consideration under the CODDV category may not be a candidate in the Presidential category.)

(b) An eligible individual may apply to USAFA/RRS, USAF Academy CO 80840. A suggested letter format is included in the USAFA catalog and in the Admissions Guide which accompanies the precandidate questionnaire. The nominating period opens on May 1 and closes January 31. Applicants should not write directly to the President of the United States since these applications are processed by the Air Force Academy.

§ 901.15 Vice Presidential.

(a) Any individual who meets the basic eligibility requirements of § 901.5 may apply for a nomination to the Vice President, United States Senate, Washington, D.C. 20510. The Vice President will accept requests for nominations between May 1 and October 31.

(b) It is important to submit a request for nomination before, or early in the nominating period. A suggested letter format is included in the USAFA catalog and in the Admissions Guide which accompanies the precandidate questionnaire. Address all inquiries concerning status of application to the nominating authority.

§ 901.16 Children of deceased or disabled veterans and children of military or civilian personnel in a missing status (competitive).

(a) The child of a deceased or disabled member of the Armed Forces of the United States is eligible for nomination if:

(1) The parent was killed in action, or died of wounds or injuries received or diseases contracted while in active service, or of preexisting injury or disease aggravated by active service, or

(2) The parent has a permanent service-connected disability rated at no less than 100 percent, resulting from wounds or injuries received or diseases contracted while in active service, or preexisting injury or disease aggravated by active service.

(b) The child of a parent who is in "missing status" is eligible, if the parent is a member of the armed services or a civilian employee in active Government service who is officially carried, or determined to be absent, in a status of missing; missing in action; interred in a foreign country; captured, beleaguered, or besieged by a

hostile force; or detained in a foreign country against the person's will.

(c) To request a nomination in this category, an individual must submit an application to USAFA/RRS between May 1 and January 31. A suggested letter format is included in the USAFA catalog.

§ 901.17 Honor military and honor naval schools—college or university AFROTC—high school AFJROTC (competitive).

(a) *Honor military and honor naval schools:* (1) Five honor graduates, or prospective honor graduates, from each designated honor military and honor naval school may be nominated to fill the vacancies allocated to this category. Vacancies are filled in the order of merit, regardless of the schools from which the nominations are made. Appropriate school authorities must certify that each nominee is a prospective honor graduate or an honor graduate and meets the basic eligibility requirements listed in § 901.5.

(2) Appropriate school authorities use the nomination blanks provided by the Academy to submit nominees to USAFA/RRS, USAF Academy CO 80840. Such nominations are submitted no later than January 31 for the class entering the following summer. Nominations are not limited to honor graduates of the current year. An individual eligible for nomination in this category applies to the administrative authority of the school involved.

(b) *College or University AFROTC and high school AFJROTC:* (1) Five students from each college or university AFROTC Unit may be nominated to compete for the vacancies allocated in this category. Vacancies are filled in the order of merit.

(i) The student applies for nomination to the professor of aerospace studies, who must certify that the applicant meets the basic eligibility requirement listed in § 901.5 and will have satisfactorily completed 1 year of scholastic work at the time the class for which he or she is applying enters the Academy.

(ii) The professor of aerospace studies uses the forms provided by the Academy to recommend for nomination the five best qualified applicants to the president of the educational institution in which the AFROTC unit is established.

(iii) The president of the institution submits the nominations to USAFA/RRS, USAF Academy CO 80840, by January 31 of the year in which the applicants desire appointment.

(2) Five students from each high school AFJROTC unit may be nominated to compete for the vacancies allocated to this category. Vacancies are filled in the order of merit.

(i) The student applies for nomination to the aerospace education instructor, who must certify that the applicant meets the basic eligibility requirements listed in § 901.5, and will have successfully completed the prescribed AFJROTC program by the end of the school year.

(ii) The aerospace education instructor uses the nomination blanks provided by the Academy to recommend for nomination the five best qualified applicants to the principal of the high school in which the AFJROTC unit is established.

(iii) The principal of the high school submits the nominations to USAFA/RRS, USAF Academy CO 80840, by January 31 of the year in which the applicants desire appointment.

§ 901.18 Children of Congressional Medal of Honor recipients.

(a) The child of any Congressional Medal of Honor recipient who served in any branch of the Armed Forces may apply for nomination. If an applicant meets the eligibility criteria and qualified on the entrance examinations, he or she is admitted to the Academy.

(b) The applicant must write to USAFA/RRS, USAF Academy CO 80840 requesting a nomination in this category. The nominating period opens on May 1 and closes January 31. A suggested letter format is included in the USAFA catalog.

§ 901.19 Citizens of the American Republics and the Republic of the Philippines.

(a) The Academy is authorized to provide instruction to as many as 20

persons at any one time from the American republics. However, not more than three students from any one republic may receive instruction at the same time. In addition, one student from the Republic of the Philippines may be admitted in each entering class. A citizen of an American republic must apply to the government of his or her own country. A Filipino applies to the President of the Republic of the Philippines.

(b) The application must contain complete particulars about the applicant's background and should be submitted at least a year before the time of desired admission to the Academy. Applicants in these categories must meet the eligibility requirements established for all Academy candidates, except the requirement to be a US citizen, and must be able to read, write, and speak English proficiently.

§ 901.20 Notification of change of address or station assignment.

The applicant or nominee is personally responsible for notifying USAFA/RRS, USAF Academy CO 80840, of every change of address or station assignment. Notifications from military personnel must include complete name, grade, SSAN, and new organization or unit to which assigned.

§ 901.21 Supply of forms.

DD Forms 1867, 1868, 1875, and 1908 are stocked and issued by USAFA/RRS, USAF Academy CO 80840. DD Form 1870 is stocked and issued by the Air Force Academy Activities Group, HQ USAF/MPPA, Wash DC 20330. Air Force Units may procure AF 1786 through normal distribution channels.

Subpart C—Cadet Appointments

§ 901.22 Obligations of cadet appointment.

(a) A cadet who enters the Air Force Academy directly from civilian status and takes an oath of allegiance as a cadet assumes a military service obligation of 6 years.

(b) Cadets will be required to sign an agreement, with parents' or guardians' consent if a minor, that they will fulfill these obligations:

(1) Complete the Academy course of instruction, unless disenrolled from the Academy by competent authority.

(2) Accept an appointment and serve as a commissioned officer in a Regular component of one of the armed services for 5 years.

(3) If authorized to resign from the Regular component before the sixth anniversary of their graduation, serve as a commissioned officer in the Reserve component until the sixth anniversary.

(4) If disenrolled from the Academy before graduation, the cadet will be subject to the separation policies which apply to all service academies. Application of these policies will be governed by the Department of Defense requirements of the Active and Reserve components and the national manpower needs of selective service (see AFR 53-3).

§ 901.23 Cadet's oath of allegiance.

Upon admission, each cadet will be required to take the following Oath of Allegiance: "I, (name), having been appointed an Air Force Cadet in the United States Air Force, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So Help Me God."

PART 902—OFFICER TRAINING SCHOOL, USAF (OTS)

Subpart A—Administering the Program

Sec.

902.1 Purpose.
902.2 Terms explained.
902.3 OTS mission and objectives.
902.4 Responsibilities.
902.5 OTS selection boards.
902.6 Sources of information.
902.7 Direct communication.

Subpart B—Application for and Assignment to OTS

902.8 Eligibility requirements.

Sec.

902.9 Who is ineligible to apply.
902.10 Processing and assigning applicants.
902.11 Required security investigations.
902.12 How clothing is provided.
902.13 Disposition of applications and supporting papers.

Subpart C—Administrative Procedures for Officer Trainee Students Enrolled in OTS

902.14 Administration of officer trainees.
902.15 Arrival and accession.
902.16 Elimination of officer trainees.
902.17 Action taken when officer trainees are holdover.
902.18 Graduation and commissioning actions.

Subpart D—Posthumous Appointments

902.19 When to make posthumous Reserve appointments.
902.20 How posthumous appointments are made.

Subpart E—Procedures and Requirements

902.21 Educational qualifications.
902.22 Special requirements.
902.23 Mental qualifications.
902.24 USAFR and ANG requirements.
902.25 Processing, waiver, and selection responsibilities.
902.26 Preliminary processing of application.
902.27 Enlistment and assignment of selected applicants.
902.28 Promotion of airmen on active duty scheduled to attend OTS.
902.29 Disposition of eliminated officer trainees.
902.30 Procedures for eliminating students from OTS.
902.31 Processing students eliminated from OTS.

AUTHORITY: Secs. 8012, 9411, 70A Stat. 488, 571 (10 U.S.C. 8012, 9411).

SOURCE: 43 FR 39089, Sept. 1, 1978, unless otherwise noted.

NOTE: This part is derived from Air Force regulation 53-27, September 30, 1976, including change 1, September 19, 1977.

Subpart A—Administering the Program

§ 902.1 Purpose.

(a) This part explains how to apply for Officer Training School, USAF (OTS); how commands process applications; and how officer trainees are administered while enrolled in OTS. It applies to all applicants and all commands and activities that process OTS applications, including United States Air Force Reserve (USAFR) and Air National Guard (ANG) activities. This part is affected by the Privacy Act of 1974. Each form that is subject to the provisions of Part 806b of this chapter and required by this part contains a Privacy Act statement, either incorporated in the body of the document or in a separate statement accompanying each such document.

(b) Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 902.2 Terms explained.

(a) *Applicant.* An individual who applies for OTS and is processed within the procurement criteria as established by this part.

(b) *Holdover.* An officer trainee who has completed all training requirements for commissioning but has not received either medical, security, or administrative clearance by graduation date. Such trainees are reassigned to a later class for either commissioning or disenrollment.

(c) *Officer candidate-type training program.* Any of the officer training programs as defined in AFR 53-5.

(d) *OTS program.* An Air Force commissioning program for college graduates.

(e) *Reasons for elimination:* (1) Academic deficiency—failure to achieve a passing score on the airmanship final examination including examinations retaken later.

(2) Flying training deficiency—failure to meet requirements of the flight screening program syllabus. (For use in the flight screening program (FSP) for pilot candidates.)

(3) Lack of aptitude for commissioned service—lack of the personal capacity and inclination either natural or acquired to adapt to military relationships, customs, and responsibilities which have become traditional and necessary in military service.

(4) Manifestations of apprehension (MOA)—exhibition of a condition to a degree which impairs the student's

ability to satisfactorily execute flying duties, procedures and maneuvers. (For use in the FSP for pilot candidates.)

(5) Medical—failure to maintain the physical standards required to complete the program for which enlisted.

(6) Military training deficiency—failure to achieve passing scores on written performance measurements or performance ratings.

(7) Prejudicial conduct—defective attitude, improper conduct, a lack of responsibility toward assigned duties, or toward continued military service, or the character disorders over which a student has control and which raises doubt regarding the student's fitness for continuation in training.

(8) Self-initiated elimination (SIE)—withdrawal resulting from a student's written request for elimination.

(f) *Tentatively qualified applicant.* An applicant who has been determined eligible for OTS after preliminary processing.

(g) *OTS report date.* Date selectees scheduled to attend OTS must report, normally not earlier than (NET) 0700 hours, and not later than (NLT) 1630 hours, 2 workdays before OTS class starting date.

(h) *Officer trainee (OT).* A student undergoing training at the Officer Training School, USAF.

(i) *Elimination.* The formal disenrollment of a student from training as a result of faculty board or adminstrative action.

(j) *Reclassification.* A student who becomes disqualified to continue training in the career field for which entered into OTS but who remains qualified to continue training in a different career field on approval of AFMPC/DPMM.

(k) *Recycle.* An officer trainee removed from training through faculty board, medical, or administrative action and reentered in training in a later class.

(l) *Reports.* Reports required under this part for OTS have been assigned RCS: MPC-DPMM(AR) 7603.

§ 902.3 OTS mission and objectives.

(a) *Mission.* The OTS mission is to train and commission candidates as second lieutenants in response to USAF, ANG, and USAFR requirements.

(b) *Objectives.* OTS objectives are to:

(1) Provide: (i) Sufficient numbers of newly commissioned officers with the qualification to meet changing Air Force manpower requirements.

(ii) An orderly transition to commissioned service.

(iii) The essential military knowledge and skills a newly commissioned Air Force officer needs to perform effectively.

(2) Instill in each graduate:

(i) High standards of conduct morality, integrity, and honor.

(ii) Attitudes and interests congruent with a career as an Air Force officer.

(3) Identify and eliminate trainees who do not meet the standards required of commissioned officers in the Air Force.

§ 902.4 Responsibilities.

(a) HQ USAF/DPPP determines annual OTS production objectives.

(b) AFMPC/DPMMOP: (1) Provides Air Staff supervision of OTS.

(2) Provides annual objectives and monitors production.

(3) Acts on reclassification requests on those individuals who, after entering OTS, are found disqualified for the career area in which enlisted but remain qualified for commissioning in another career area. AFMPC/DPMMOP coordinates with AFMPC/DPMMOA to ensure that an Air Force requirement exists, and that the individual possesses the necessary qualifications to satisfy that requirement.

(4) Provides OTS class entry and graduation schedules. This includes the establishment of class sizes, determining quotas for the various categories of personnel, initiating and distributing class schedules, and monitoring each class in training.

(5) Provides written procedures for officer trainee administrative and personnel actions governed by this part.

(6) Maintains statistical data regarding OTS production.

(c) Air training Command (ATC). ATC monitors the overall mission of OTS, including the establishment of class entry and graduation dates.

(d) U.S. Air Force Recruiting Service (USAFRS):

(1) Procures applicants and completes final processing for active duty quotas, including accepting or rejecting applicants and assignments to OTS classes.

(2) Through local recruiters, maintains liaison with professors of aerospace studies (PAS) at colleges and universities hosting Air Force Reserve Officers' Training Corps (AFROTC) detachments, to coordinate visits by recruiting service personnel.

(3) Coordinates written instructions for the recruitment of OTS applicants with AFMPC/DPMMOP.

(4) Provides: (i) AFMPC/DPMMOP and AFMTC/3700 Personnel Resources Gp/DPPRO NET 7 calendar days and NLT 4 calendar days before each OTS class entry date, a final class by-name listing, to include projected officer AFSC of each OTS selectee.

(ii) 3700 Personnel Resources Gp/DPPRO NET 30 calendar days and NLT 25 calendar days before each OTS class reporting date, a copy of the AF Form 56, Application for Training Leading to a Commission in the U.S. Air Force and college transcripts for each OTS selectee. For active duty selectees, include a copy of the current record review listing and copies of all prior service documents (such as: DD Form 4, Enlistment or Reenlistment Agreement—Armed Forces of the United States and DD Form 214, Report of Separation from Active Duty, Reserve discharge orders, statements of service, etc.) submitted with the selectee's application or acquired during the selection process.

(e) Air Force Institute of Technology (AFIT). AFIT coordinates class quotas with AFMPC/DPMMOP for persons selected under the airman education and commissioning program (AECP) and provides AFMPC/DPMMOP and 3700 Personnel Resources Gp/DPPRO a final class by-name listing, to include projected officer AFSC, NET 7 calendar days and NLT 4 calendar days before each class entry date.

(f) Air Force Military Training Center (AFMTC/3700 Personnel Resources Gp) sends official transcripts for each graduate of OTS to the Air Force Institute of Technology (AFIT), Wright Patterson AFB, OH 45433.

(g) OTS: (1) Commissions all OTS graduates.

(2) Designates up to 20 percent per year of the officer trainees as distinguished graduates (DG's).

(h) The Chief, National Guard Bureau (NGB), (these responsibilities may be delegated):

(1) Selects individuals to attend OTS within established NGB quotas.

(2) Issues invitational letter and class assignment to selected individuals.

(i) Headquarters, Air Force Reserve (AFRES) (these responsibilities may be delegated):

(1) Selects individuals to attend OTS within established AFRES quotas.

(2) Issues invitational letter and class assignment to selected individuals.

(j) Consolidated Base Personnel Office, Classification and Training Unit (CBPO/DPMPC). Completes preliminary processing of USAF active duty applicants and, in remote areas, of civilian applicants. CBPO/DPMPC advises USAFRS/RSOPO of any changes in assignment and eligibility status of OTS applicants.

(k) Officer Training Program Examining Centers (OTPEC's):

(1) Fulfill responsibilities in AFR 23-11, Officer Training Program Examining Centers (OTPEC's);

(2) Forward Air Force officers qualifying test (AFOQT) results and other required documents within 10 workdays to the Personnel Research Division, Air Force Human Resources Laboratory (AFHRL), Brooks AFB, TX 78235, according to AFM 35-8, Air Force Military Personnel Testing System.

(l) Unit commanders. For airmen applying for or selected for OTS, commanders must monitor their performance for disqualifying factors. If such factors become apparent after submission of application, promptly notify USAFRS/RSOPAO in writing through the CBPO. Provide the same information for selectees up to the time of actual departure for OTS. Particular care must be taken to make sure that any infraction, adverse

change in attitude or personal appearance, decline in duty performance, etc., is reported.

§ 902.5 OTS selection boards.

USAFRS, NGB, and AFRES each appoint a board of officers (selection board) to review OTS applications and make final selections.

§ 902.6 Sources of information.

Information about OTS may be obtained from:

(a) Air Force recruiting offices.

(b) CBPO/DPMPC units.

(c) ANG or USAFR units.

(d) Base education service centers.

§ 902.7 Direct communication.

(a) USAF recruiting activities are authorized to correspond directly with all OTPEC's and Air Force bases regarding recruiting activities, individual applicants, and administrative details.

(b) Direct communication is authorized between OTPEC's, State adjutants general, and ANG and USAFR unit commanders regarding matters pertaining to individual applicants and administrative details.

Subpart B—Application for and Assignment to OTS

§ 902.8 Eligibility requirements.

To be eligible for this program, an applicant must:

(a) Be a citizen of the United States.

(1) An applicant must present documentary evidence of citizenship and age (birth certificate or other legal documentation for verification of age and naturalization certificate if not a citizen by birth). These documents are returned to the individual and do not become a part of the application.

(2) An applicant who is not a U.S. citizen by birth must furnish a statement signed by an officer, notary public, or other person authorized by law to administer oaths as follows: "I certify that I have this date seen the original Certificate of Naturalization Number ——— (or certified copy of the court order establishing citizenship) stating that (full name of applicant) was admitted to United States citizenship by the Court of (district or county) at (city and state) on (date)."

NOTE: Facsimiles, copies, photostats, or reproduction of naturalization certificates, or any part thereof, are prohibited by law. Violation is punishable by a fine of not more than $5,000 or imprisonment of not more than 5 years, or both (18 U.S.C. 1426(h)).

(b) Be commissioned before reaching age 30, if applying for nonflying duty. (AFMPC/DPMMOP may waive maximum age restriction for outstanding and deserving airmen on active duty who can complete all requirements and be commissioned before reaching age 35.) If applying for flying training, individual must be commissioned and entered into flying training before reaching age 27½.

(c) Be of good moral character and possess the personal qualities desired of a commissioned officer.

(d) If USAFR or ANG applicant, meet the additional qualifications shown in § 902.24.

(e) Be medically qualified to enter the program for which applying. (Applicants do not complete a physical examination unless selected for OTS.)

(f) Be otherwise qualified for a commission.

(g) Meet the additional eligibility criteria shown in §§ 902.21 and 902.22, and possess the required documents as shown in §§ 902.23 and 902.26.

§ 902.9 Who is ineligible to apply.

An individual is ineligible for this program who is:

(a) An airman based in the CONUS and selected for an oversea assignment.

(b) An airman who has submitted an application for a hardship discharge.

(c) A person not eligible for enlistment or reenlistment in the Air Force under Part 888 of this chapter and AFR 35-16, volume I, USAF Re-enlistment and Retention Program (or ANGR 39-09 for ANG applicants).

NOTE: Does not include individuals who failed to meet grade restrictions under AFR 35-16, volume I. Warrant officers from other branches of the Armed Forces, desiring to apply for OTS, should attach to their application a request for waiver of Part 888 of this chapter.

(d) An airman being considered for separation for unsuitability or misconduct, or who has had a personnel security clearance denied or revoked.

(e) An airman undergoing court-martial proceedings or being investigated for any offense. (Includes an airman who refuses punishment under Article 15, UCMJ, and requests trial by court-martial.)

(f) An airman on the control roster.

(g) An applicant who has a record of conviction by court-martial or civil court. (A waiver of minor offenses, including traffic violations, may be requested if required for enlistment or reenlistment under Part 888 of this chapter and AFR 35-16, volume I. Part 888 contains definitions of "minor offenses." A waiver may not be granted for an offense involving moral turpitude.) Waiver requests must be approved by the base commander and are submitted with the application.

(h) A person whose entry into or retention in the Air Force may not be clearly consistent with the interest of national security (AFR 35-62, Security Program).

(i) A person who:

(1) Holds or has held a commmission in any of the U.S. Armed Forces.

(2) Holds a certificate of completion of a course leading to a commission in any of the U.S. Armed Forces, and the commission is to be granted at a later date.

(3) Is a member of a Reserve Force, other than the USAFR or ANG, and has not obtained a conditional release.

(4) Is in the active military service of the United States, other than the Air Force.

(j) A conscientious objector, or has any reservations regarding the oath of office.

(k) A Selective Service System registrant and has been ordered to report for active military service with one of the armed services unless released by the Selective Service board.

(l) A person who has been determined to be a substantiated drug abuser and who has not successfully completed the Air Force rehabilitation program. However, a member who has successfully completed rehabilitation is eligible for this program. Additionally, procurement commands have authority to waive preservice drug abuse in unusual and deserving cases (AFR 30-2, Social Actions Program).

NOTE: Does not include a member enrolled in the Air Force alcohol rehabilitation program who is eligible to apply for OTS. However, if selected, member is not scheduled for entry into OTS until successful completion of the rehabilitation program.

(m) A person who, while on extended active duty (EAD), was permanently disqualified from the human reliability program (AFR 35-99, Human Reliability Program) or the personnel reliability program. Waivers must be approved by AFMPC/DPMRPP.

(n) An applicant who was selected for OTS but declined to attend is ineligible to reapply for a period of 6 months from date of declination.

(o) An applicant who was not selected by two consecutive selection boards, or one selection board and requests the application be withdrawn, is ineligible to reapply for a period of 180 calendar days from date the second selection board is convened or the date of the withdrawal letter.

§ 902.10 Processing and assigning applicants.

(a) Section 902.25 prescribes processing, waiver, and selection responsibilities.

(b) Section 902.26 outlines preliminary processing criteria and the documents required.

(c) Section 902.27 and § 902.28 outline enlistment and assignment of selected applicants and promotion criteria for airmen on active duty scheduled to attend OTS.

§ 902.11 Required security investigations.

All applicants selected to attend OTS must have a favorable national agency check (NAC) completed before commissioning. Therefore, when a tentatively accepted applicant signifies, in writing, intentions to enter the assigned OTS class, personal security forms required by AFR 205-32, USAF Personnel Security Program, must be initiated immediately, unless records reflect the applicant has a current NAC or higher investigation. A prior entrance national agency check

(ENTNAC) may be used to satisfy the investigative requirement provided it is less than 1 year old and is brought up to NAC standards by completion of the technical fingerprint check.

(a) The preliminary processing activity (§ 902.25) (CBPO/DPMPC or recruiting activity) assists applicant in completing required forms and forwards them to Personnel Investigation Center, Defense Investigative Service, P.O. Box 1083, Baltimore, Md. 21203. Make sure DD Form 1584, Department of Defense National Agency Check Request, is checked in item 17b to indicate "precommission." Enter in item 18 "Officer Trainee—Expedite" and the address of the CBPO or recruiting activity. Annotate FD form 258, FBI fingerprint card, in the reason fingerprinted block with "Officer Candidate-Air Force." Return NAC results to 3700 Personnel Resources Gp/DPPQA, Lackland AFB, Tex. 78236.

(b) One copy of DD Form 1584 is included in the personnel record group when reporting to OTS to indicate an NAC has been requested, unless a prior investigation meets the investigative requirement for appointment. (DD form 1584 is not completed when a prior investigation is acceptable.) An airman requires an NAC if the prior investigation was an ENTNAC, which was formerly known as a limited national agency check (LNAC), or has had a break in service of over 1 year since the prior investigation was conducted.

(c) The NAC must be completed and evaluated before an applicant can be given a firm OTS class assignment if he or she has made entries on the DD Form 398, Statement of Personal History, or DD Form 1966, Application for Enlistment—Armed Forces of the United States, which indicate that the enlistment or subsequent appointment may not be clearly in the interest of national security. AFR 205-32, attachment 9, contains criteria and factors to be considered in determining whether to delay the class assignment.

(d) Except as stated in paragraph (c) of this section, an applicant who requires an NAC may be given a firm OTS class assignment and enlisted for OTS. The CBPO/DPMPC unit or recruiting activity must initiate a request for an NAC as prescribed in the applicable Air Force, ANG, or AFRES directive and AFR 205-32. The applicant is advised that OTS graduation and appointment will not be permitted until the OTS commander is notified that a favorable NAC has been completed.

§ 902.12 How clothing is provided.

(a) Civilians are provided clothing under the clothing monetary allowance system.

(b) Airmen on active duty assigned TDY enroute to OTS report in uniform and current grade and continue to receive the clothing maintenance allowance to which entitled when entering the program.

(c) ANG and USAFR trainees are not authorized a clothing monetary allowance unless ordered to active duty for more than 6 months (DOD Military Pay and Allowances Entitlement Manual (DODPM), part 8, paragraph 80245).

(1) Members of the USAFR accepted for OTS are given a clothing inspection by their unit of assignment. All uniform items meeting replacement criteria in AFM 67-1, USAF Supply Manual, volume I, part one, chapter 17, paragraph 60c(2), are replaced on an item-for-item basic by the host equipment management office (EMO) or base equipment management office (BEMO). Required items listed in AFR 67-57, Uniform Clothing Allowances for Airmen, attachment 3, that have not been issued in the designated quantities to the Reserve airman, are obtained through a category 66 sale by the supporting EMO or BEMO according to AFM 67-1, volume IV, part 1, chapter 21, paragraph 7b.

(2) Other persons enlisting in the USAFR to attend OTS are given a complete clothing issue, as outlined in AFR 67-57, attachment 3, paragraph 3, at AFMTC.

§ 902.13 Disposition of applications and supporting papers.

Applications and related documents consisting of examining board proceedings which determined applicant's suitability, documents reflecting physical fitness, questionnaires, college

transcripts, various certificates, and notice of qualified applicant's selection or declination, are disposed according to AFM 12-50, Disposition of Air Force Documentation.

Subpart C—Administrative Procedures for Officer Trainee Students Enrolled in OTS.

§ 902.14 Administration of officer trainees.

The procedures outlined in this subpart are the responsibilities of and apply to AFMTC/3700 Personnel Resources Group and the Officer Training School, USAF, in the administration and training of officer trainees.

(a) AFMTC/3700 Personnel Resources Group functions as the Consolidated Base Personnel Office (CBPO) for all officer trainees by providing support under a modified base level military personnel system (BLMPS) concept known as processing and classification of enlistees (PACE) to support processing and accession data, classification, assignment, and other actions necessary to complete the military personnel file of trainees. This portion of the group is functionally organized as follows:

(1) Officer Trainee Processing Section (DPPRO).

(2) Special Actions Branch (DPPQA).

(b) Officer Training School, USAF provides precommissioning training to all officer trainees and is functionally organized, with delegated responsibilities delineated, as follows:

(1) Military Training Deputate (OTS/MT)—responsible for the management and control of all training functions relating to the precommissioning program.

(2) Flight Operations Deputate (OTS/FO)—responsible for the overall pilot and screening programs and the screening of candidates to determine their physical and phychological capabilities to continue in undergraduate pilot training.

(3) School Services Division (OTS/DT)—responsible for providing logistic and facility support to the deputies for military training and flight operations.

(i) Faculty Board Branch (OTS/DPT)—provides administrative support concerning faculty board actions.

(ii) School Unit Administration (OTS/DTQ)—monitors the delay status of newly commissioned officers awaiting departure to new units of assignment and is responsible for emergency leave processing of officer trainees.

§ 902.15 Arrival and accession.

(a) Each incoming OT is advised to report to DPPRO for initial in-processing.

(b) Each OT reporting to OTS provides DPPRO with an official college transcript that includes the "raised" seal of the school, registrar's signature, degree awarded, major academic area, and date degree was conferred. DPPRO advises an OT who arrives without a transcript, to immediately request a copy from the appropriate educational institution. Any problems encountered in obtaining transcripts are referred to AFMPC/DPMMOP, Randolph AFB, Tex. 78148. If eliminated from OTS, DPPRO returns the transcript to the OT. An OT is not commissioned until receipt of an official transcript. After each graduation, DPPRO assembles a package containing each OT's transcript and a class graduation roster and forwards to AFIT/RSST, Wright-Patterson AFB, Ohio 45433, within 15 workdays after graduation.

§ 902.16 Elimination of officer trainees.

(a) An OT may be eliminated from training for any of the following reasons:

(1) Academic deficiency.

(2) Flying training deficiency.

(3) Lack of aptitude for commissioned service.

(4) Manifestations of apprehension.

(5) Medical deficiency.

(6) Military training deficiency.

(7) Prejudicial conduct.

(8) Self-initiated elimination.

(9) Other (for example: Administrative reasons, indifferenee to training, unsuitability, undesirable traits of character, identification as a substantiated drug abuser, or for security reasons).

(b) When an OT is processed for elimination from OTS, DD Form 785, Record of Disenrollment from Officer Candidate-Type Training, is prepared and must include the reasons and circumstances of the elimination with specific recommendations for further training leading to a commission at a later date. Section 902.30 outlines elimination procedures.

(c) OTS/MT will not initiate elimination procedures for OTs due to medical reasons until the report of medical examination has been certified "disqualified" by the ATC Surgeon. Date of such certification must be included in the remarks section of the DD Form 785.

(d) An OT eliminated from OTS for any reason other than medical is ineligible to reapply unless waiver is approved by AFMPC/DPMMOP, Randolph AFB, Tex. 78148 (see §§ 902.8 and 902.9).

(e) An OT eliminated for medical reasons who is later determined physically qualified by ATC/SGPA may be reinstated. No formal application is required: *Provided,* The period between elimination and written request for reinstatement does not exceed 6 months. The needs of the Air Force, the qualifications of the individual, and the recommendations at time of elimination are carefully considered. Reinstatement is approved by AFMPC/DPMMOP in coordination with AFMPC/DPMMOA and OTS/MT and a determination made as to the phase of reentry.

§ 902.17 Action taken when officer trainees are heldover.

(a) OMT sends the names with the reasons for the holdover action to DPPRO NLT 7 workdays before graduation, for OT's who have not met the qualification requirements for graduation. Specifically, the names of OT's are submitted when they are pending:

(1) Receipt of the NAC;

(2) Medical qualification; or

(3) Any other action which could render the OT ineligible for graduation (such as pending board action, pending elimination, etc.).

§ 902.18 Graduation and commissioning actions.

(a) The faculty board conducts a precommissioning review of each OTs qualifications for commissions and prepares a report which:

(1) Indicates that OT is or is not mentally, morally, physically, and professionally qualified for appointment in the grade of second lieutenant.

(2) Recommends appointment or other disposition.

(b) When an OT is not recommended for a commission, the faculty board initiates appropriate elimination action, forwarding the report of the proceedings to AFMPC/DPMMOP.

(c) When an OT recommended for commissioning becomes involved with civil authorities and criminal charges (for other than minor traffic violations) are filed or pending, the faculty board withholds the commission until disposition of the case. If convicted, or the charges are not expected to be disposed of before the individual's projected commissioning date, the board sends the trainee's file to AFMPC/DPMMOP, for waiver determination.

(d) After the precommissioning review process is completed, the School Commandant insures the commissioning of qualified graduates and designates up to 20 percent of the OT's as distinguished graduates.

(e) OTS/MT appoints a board of officers to review the records of top students in each graduating class to select those OTs to be designated as distinguished graduate and honor graduate of their class on the basis of the OT's performance during the training course. To be designated as distinguished graduate, an OT must be in the academic upper third of the class and be recommended by the selection board. Officer trainees not in the academic upper third, but whose training records reflect overall exceptional performance, may be considered by the selection board if approved by the School Commandant. No more than 20 percent of the OTS Graduates per year may be designated distinguished graduates. OTS/MT notifies DPPRO NLT 4 workdays before graduation of all distinguished graduates and DPPRO announces such designations

in the appointment orders. Presentation of the letter of recognition to each selected OT is made during the graduation ceremony.

Subpart D—Posthumous Appointments

§ 902.19 When to make posthumous Reserve appointments.

An OTS student who was certified as qualified for appointment but died in line of duty before appointment could be accepted, may be appointed posthumously.

§ 902.20 How posthumous appointments are made.

If considered appropriate, the OTS Commandant requests AFMPC/DPMMOP, Randolph AFB, Tex. 78148, to publish the posthumous appointment order. No financial benefits accrue as a result of such a posthumous appointment.

Subpart E—Procedures and Requirements

§ 902.21 Educational qualifications.

RULE	A	B	C
	If applicant	then applicant is	and
1	does not possess at least a baccalaureate degree from a college or university (see note 1) and is not enrolled in the senior year of a regionally accredited college or university	not qualified.	
2	possesses a baccalaureate of higher degree from a nonregionally accredited college or university listed in the Education Directory, Higher Education, as offering the baccalaureate degree, and a statement of acceptance to a graduate school of a regionally accredited college or university clearly stating the person is considered a graduate of a regionally accredited institution (see note 1)	qualified	attaches to the application one copy of an official transcript of college credits indicating the undergraduate or graduate degree awarded, major subject(s), grades received (see note 2), and the statement of acceptance to a graduate school of a regionally accredited college or university.
3	possesses a baccalaureate or higher degree from a regionally accredited college or university listed in the Education Directory, Higher Education, as offering the baccalaureate or higher degree (see note 1)		attaches to the application one copy of an official transcript of college credits indicating the undergraduate or graduate degree awarded, major subject(s), and grades received (see note 2).
4	possesses a degree from a foreign college or university		complies with rule 3C plus submitting evidence that college credits are acceptable for graduate work by a US regionally accredited institution (see note 2).
5	is enrolled in the senior year at a regionally accredited college or university and is within 180 calendar days of graduation (see note 3)		attaches to the application a copy of an official college transcript indicating all courses completed or currently being undertaken, and a statement from the Registrar certifying to the scheduled graduation date, degree to be awarded, major subject(s), and grade point average (see notes 2 and 4).

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NOTES: 1. The Education Directory, Higher Education, (published annually by the Department of Health, Education and Welfare) lists the accreditation status and the highest offering for colleges and universities in the United States and its outlying areas.

2. Official transcripts that includes the raised seal from each college or university attended is required.

3. A college senior may apply as early as 180 calendar days before graduation if the OTS availability date coincides with the application schedule available at USAF Recruiting Service offices. For example, a June graduate may apply in December, if availability for entry into the first OTS class begins after graduation date.

4. A complete transcript evidencing award of the degree or documentary evidence that a degree has been awarded must be presented at time of enlistment.

§ 902.22 Special requirements.

RULE	A	B	C
	If applicant qualifies under paragraph B and table 1 and is	and has	then the applicant is
1	a member of a Reserve Force other than the USAFR	obtained a conditional release from the specific service	qualified.
2		not obtained a conditional release from the specific service	not qualified.
3		received orders for call to active military service in any of the armed forces other than the Air Force	
4	in the active military service of the United States other than the Air Force		
5	one who has been disenrolled from an officer candidate-type training program		tentatively qualified (see note).

NOTE: The military services use DD Form 785, (AFR 53–5) to exchange information on personnel disenrolled from officer candidate-type training programs who later apply for other programs. The DD Form 785 becomes a part of and is forwarded with the application. Only AFMPC/DPMMOP, Randolph AFB TX 78148, may waive the disenrollment record of former service academy cadets and personnel disenrolled from other officer training programs for specific reasons stated in AFR 53–5. Requests for waiver are forwarded with application for OTS to USAFRS/RSOPO, Randolph AFB TX 78148.

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584

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§ 902.23 Mental qualifications.

RULE	A	B	C
	If applicant qualifies under paragraph 8 and tables 1 and 2 and is applying for	then applicant completes (see note)	and the minimum qualifying scores are
1	flying (pilot or helicopter) training	all five composites of the AFOQT	at least 25 percentile in the pilot composite and at least 10 percentile in the navigator composite with the total score in these two composites being at least 50 percentile.
2	flying (navigator) training		at least 25 percentile in the navigator composite and at least 10 percentile in the pilot composite with the total score in these two composites being at least 50 percentile.
3	nonflying duties (male and female)	only the Officer Quality, Verbal, and Quantitative composites	no minimum scores established.

NOTE: ANG and USAFR units may administer the AFOQT if they have the proper facilities (see AFM 35–8); otherwise, they may arrange for examinations through the nearest Air Force recruiting activity or Air Force base. AFOQTs administered by Recruiting Service may be scored by OTPECs or in Recruiting Service detachments. AFOQTs administered to OTS applicants by AFROTC units are scored by Recruiting Service detachments. Travel and transportation expenses of a USAFR applicant from his or her home to the place of testing and return are not authorized at Government expense. Enter AFOQT results on AF Form 56, Item 8.

585

§ 902.24 USAFR and ANG requirements.

RULE	A	B
	If an applicant	then applicant must be qualified, available, and scheduled for assignment on graduation to a lieutenant or captain vacancy which exists or is projected at the time of application and when selected must enlist for a period of
1	has no prior service and is under 26 years of age	6 years to coincide with the incurred military obligation.
2	has no prior service and is over 26 years of age	1 year.
3	is without military status or has prior service and no remaining military obligation	

§ 902.25 Processing, waiver, and selection responsibilities.

RULE	A	B	C	D
	If the applicant is	then preliminary processing is the responsibility of the	and authority to grant or deny waivers of minor offenses or violations is delegated to	and applications are forwarded for final processing, verification, and selection board action to
1	a USAF airman	applicant's servicing CBPO/DPMPC	the commander with direct control over the CBPO that maintains the applicant's personnel record	USAFRS/RSOPO Randolph AFB TX 78148.
2	an ANG applicant		the State adjutant general	NGB/DPT Wash DC 20310.
3	a USAFR applicant		AFRES (authority may be delegated to regions)	AFRES/DPAT Robins AFB GA 31098.
4	a civilian	USAF Recruiting Detachment	USAF Recruiting Service	USAFRS/RSOPO Randolph AFB TX 78148.
5		CBPO when applicant resides in oversea area	Base Commander of installation where applying, when in oversea area	

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§ 902.26 Preliminary processing of application.

If an applicant eligible under tables 1 through 5 (see note 1) is		RULE			
		1	2	3	4
*A	a USAF airman (see note 5).	Yes			
B	a USAFR applicant		Yes		
C	an ANG applicant			Yes	
D	a civilian applicant				Yes
then the authority designated in table 5					
E	types AF Form 56 in duplicate.	X			X
F	types AF Form 56 in triplicate.		X	X	
G	prepares AF Form 2061, USAF Drug Abuse Certificate.	X	X	X	X
H	prepares AF Form 2031, Drug Abuse Circumstances, when required.	X	X	X	X
I	attaches copy of transcript of all college credits.	X	X	X	X
J	attaches evidence of acceptability of college credits, when required.	X	X	X	X
K	attaches certificate of impending graduation, when required.	X	X	X	X
L	attaches a current copy of the Record Review Listing (RRL) and last three Airman Performance Reports.	X			
M	attaches conditional release, when required.		X	X	X
N	attaches DD Form 785, when required.	X	X	X	X
O	attaches enlistment agreement, as required.		X	X	
P	attaches statement of ANG agreement (see note 2).			X	
Q	attaches statement of USAFR agreement (see note 2).		X		
R	attaches approved waivers, when required.	X	X	X	X
S	determines requirement for a National Agency Check and notifies USAFRS/RSOPO at time application is forwarded (paragraph 11).		X	X	X
*T	changes "Assignment Availability" to indicate ineligibility for PCS move, pending selection or nonselection to OTS include date entered as code 05 in cover letter.	X			
*U	reviews application and attached documents for accuracy and completeness (including all required signatures) and sends, with cover letter, before the selection cutoff date, to the final processing activity.	X	X	X	X
V	attaches completed AF Form 90 in triplicate.	X	X	X	
*W	attaches letter of evaluation by squadron commander (see note 3).	X			
*X	schedules physical examination when notified by USAFRS/RSOPO (see note 4).	X			X

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NOTES: 1. Rules 1E, 4E, 2F, and 3F also apply to applicants who meet all basic eligibility criteria except medical qualification.

2. Attach to each copy of the form completed (original to original, etc), a copy of one of the following statements:

a. For ANG applicant: "I desire to enter the Officer Training School under the Air National Guard quota. I agree to accept an appointment as a Reserve of the Air Force officer, if tendered, and an appointment in the Federally recognized Air National Guard on graduation. I further agree to serve as a commissioned officer of a Federally recognized Air National Guard unit or other United States Air Force Reserve unit as directed for at least 4 years after appointment or for the length of time needed to satisfy my military service obligation, whichever is greater. I understand that failure to participate for reasons within my control may result in discharge action under ANGR 39–10."

b. For USAFR applicant: "I desire to enter the Officer Training School under the United States Air Force Reserve quota. I agree to accept an appointment as an officer in the United States Air Force Reserve, if tendered; to meet training requirements of the Ready Reserve element to which I am assigned; and to remain assigned to that program element for 4 years or for the time necessary to satisfy my military service obligation, whichever is greater. I understand that failure to participate for reasons within my control may result in discharge action under AFR 35–41, volume III, chapter 3."

* 3. Letters of evaluation from unit commanders must specifically address the applicant's potential for commissioning. These letters also must contain a statement that the applicant does or does not have any assignment limitations. If the applicant does have assignment limitations, a detailed explanation of these limitations must be furnished. Applications which do not contain these statements will not be accepted.

* 4. On completion of physical examination, forward the original and three copies of the SF 88, Report of Medical Examination and SF 93, Report of Medical History to USAFRS/RSOPO, Randolph AFB TX 78148. After the physical examination has been certified by ATC/SG as qualified, the processing activity is notified by class assignment letter. If applicant has been determined not qualified by the examining facility, forward three copies of the SFs 88 and 93 to USAFRS/RSOPO for review by ATC/SG. The ATC Surgeon is the final determining authority.

* 5. An airman applying from a CONUS base who was entitled to a DLA on departure from previous duty station, will not be scheduled for OTS until completion of the DLA restriction. (EXCEPTION: An airman who must be commissioned before age 35 and was granted an age waiver for OTS, may request a DLA waiver, if required.) An airman applying from an overseas area where the normal tour is 18 months or longer must complete at least one-half of the tour before being returned to the CONUS for entry into OTS; an airman serving a tour of less than 18 months must complete at least 9 months. The earliest date application may be submitted is 180 calendar days before tour adjustment date. For example: An airman serving a 36-month oversea tour with a 15 October 1979 DEROS may submit an application no earlier than 17 October 1977. This date is arrived at as follows: If selected for OTS, airman must complete 18 months of current tour before being returned to the CONUS for entry into OTS. This would adjust the tour to 15 April 1978 (DEROS). Therefore, the earliest date airman could submit an application would be 17 October 1977, which is 180 calendar days before tour adjustment date (15 April 1978). The latest date application can be submitted is the 25th day of the 7th month before DEROS month.

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§ 902.27 Enlistment and assignment of selected applicants.

RULE	A	B	C	D
	If the processing step is	and the applicant is	then	takes action to
1	enlisting	a civilian	the preliminary processing activity (table 5)	enlist applicant in the Regular Air Force and advise the applicant that; if eliminated from OTS for other than medical reasons, unsuitability, or misconduct; voluntarily changes utilization field from flying to nonflying; or becomes medically disqualified for flying training;, applicant must elect in writing to either complete the 4-year enlistment or be immediately discharged (see notes 1 and 2).
2		a USAFR airman		enlist under AFR 33–3.
3		an ANG airman		enlist under ANGR 39–09.
4	assigning to OTS	a civilian		assign to OTS.
*5		a USAF airman		publish PCS orders, on receipt of assignment notification from USAFRS, to end assignment with TDY en route at OTS and forward UPRGp to arrive at AFMTC/3700Pers Resources Gp/DPPRO, Lackland AFB TX 78136, NLT 25 calendar days before OTS class reporting date (see notes 3, 4, and 5).
6		a USAF airman overseas accompanied by authorized dependents		
7		a USAFR or ANG airman		assign to OTS in active duty for training status.
8	extending enlistment	a USAF applicant with less than 6 months of service remaining (see note 6)		ensure that airman extends enlistment contract before departing unit of assignment to ensure sufficient retainability to complete the training.
9		an ANG airman		ensure that airman extends or reenlists under ANGR 39–09.
10	adjusting grade	serving in pay grade E–5 or higher	the preliminary processing activity (table 5)	none; airman serves in current grade.
11		serving in pay grade below E–5		promote airmen on active duty according to table 8.
12		civilian	AFMTC/3700 Pers Res Gp	promote to grade E–5 according to AFR 39–29.
13	changing the Air Force specialty for which originally contracted	any candidate	AFMTC before or during training as applicable	counsel regarding the reason for the change and obtain signature agreeing to the change (see note 7).

589

NOTES: 1. A reservist in the OTS Delayed Enlistment Program (DEP) who refuses to enlist in the Regular Air Force is ineligible for OTS (AFR 33–5).

2. All applicants are informed that a voluntary change from a flying to a nonflying utilization field or a medical disqualification from flying training after commissioning does not serve as the sole basis for separation from the Air Force.

3. During relocation processing, the CBPO/DPMPC representative interviews applicant to determine if airman is still eligible and still desires officer training; notifies USAFRS and the MAJCOM if airman is no longer eligible or does not desire OTS.

*4. HQ AFMPC/DPMMOA furnishes USAFRS/RSOO and assignment instructions in projected officer AFSC, to be awarded on completion of OTS, 30 to 60 days before OTS class entry date. USAFRS/RSOO provides assignment instructions to CBPOs outside the system, however the assignments are not entered into the PDS since strength accountability remains with the losing CBPO till airman is commissioned. At that time, AFMPC/3700 Pers Resources Gp effects separation from enlisted status through the PDS. If airman fails to complete OTS, losing MAJCOM of assignment provides AFMTC/3700 Pers Resources Gp with assignment instructions.

*5. Airmen selected for OTS who return to the same duty station or organization are placed on TDY to OTS instead of PCS with TDY en route. CBPO/DPMUM, DPMUO, and DPMPP must ensure compliance with processing action in AFM 30–130, volume 1, chapters 18 and 19, paragraphs 18–17, 18–19e, and 19–14b. Since airmen attending OTS are not authorized BAS, BAS must be terminated before departure. Insert "none" in item 13, AF Form 626, Request and Authorization for Temporary Duty, and include in remarks the following statement: "BAS entitlement terminated upon airman's departure on TDY."

6. If a first-term airman in a variable reenlistment bonus (VRB) skill is administratively accepted or selected for OTS and reenlists after the date of acceptance or selection, airman is not entitled to the VRB, even though the reenlistment is considered a first reenlistment. The fact that official orders transferring airman to the training site have not been received is not a basis for entitlement to the VRB, since the reenlistment under these circumstances would *not*, in fact, be for continued service in the VRB specialty (Comptroller General Decision B-160096, 21 March 1969). An airman who enters OTS is not entitled to proficiency pay (AFR 39–45).

7. AFMPC/DPMMOA changes an officer trainee's Air Force specialty if the trainee's academic background and experience can be used better in another specialty or to meet changes in Air Force requirements.

591 BEST DOCUMENT AVAILABLE

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§ 902.28 Promotion of airmen on active duty scheduled to attend OTS.

RULE	A	B
	If selected airman	then the servicing CBPO
1	is serving in grade E–4 or below	promotes to grade E–5 effective 1 day before issuance of PCS/TDY orders (see note 1).
2	is selected for promotion to grade E–5 or below and the effective date of promotion is before issuance of PCS/TDY orders	promotes on normal effective date provided airman is otherwise eligible.
3	is selected for promotion to grade E–5 or below and the effective date of promotion is on or after issuance of PCS/TDY orders	annotates personnel records to reflect promotion cycle, selected grade, and sequence number (see note 2).
4	is selected for promotion to grade E–6 or higher	promotes on normal effective date provided airman is otherwise eligible and promotion effective date occurs before OTS commissioning date.
5	fails to complete OTS and was promoted to grade E–5 to attend OTS	effects demotion according to AFR 39–30 to the grade held before entry into OTS. Effective date of demotion is the day airman arrives at new duty station (see note 3).

NOTES: 1. Promotion orders normally are not published earlier than 15 calendar days before departure date for OTS. However, to ensure entitlements to transportation of dependents and household goods at Government expense, promotion orders must be published before issuance of PCS orders.

2. Since airman will be serving in grade E–5 while attending OTS, no action is taken to effect promotion at time the promotion sequence number would be effected.

3. If airman is entitled to promotion based on previous promotion selection (rule 3), promotion is effective the day following demotion. Effective date of promotion is the date of orders. Date of rank is the appropriate monthly date as indicated by increment sequence number.

Refer to AFM 30-130, Vol. I, chapter 18, paragraph 18-19 regarding PDS actions on promotions.

591

§ 902.29 Disposition of eliminated officer trainees.

If officer trainee entered OTS as		RULE		
		1	2	3
A	a nonprior service applicant specifically enlisted for OTS	Yes		
B	a prior service applicant (includes those entering from active duty or through the Airman Education and Commissioning Program (AECP)		Yes	
C	an ANG or USAFR applicant			Yes
then trainee is processed for				
D	discharge for the convenience of the Government according to AFM 39–10 or reassignment according to table 11	X		
E	reassignment according to table 11.		X	
F	discharge or reassignment according to instructions received from the Chief, NGB, or AFRES.			X

592 BEST DOCUMENT AVAILABLE

§ 902.30 Procedures for eliminating students from OTS.

RULE	A	B
	If elimination results from	then procedure for elimination is by
1	flying training deficiency	faculty board action.
2	academic deficiency	
3	military training deficiency	
4	SIE when waiver of faculty board is not requested or request is disapproved	
5	MOA when waiver of faculty board is not requested or request is disapproved	
6	prejudicial conduct	
7	lack of aptitude for commissioned service	
8	medical disqualification	administrative withdrawal.
9	SIE when request for waiver of faculty board is approved	
10	MOA when request for waiver of faculty board is approved	
11	initial ineligibility	
12	unfavorable results of security investigation	
13	absence in excess of 30 calendar days from OTS for any reason	
14	administrative discharge action under AFMs 39–10 or 39–12 which precludes student's continued training	
15	death	

BEST DOCUMENT AVAILABLE

§ 902.31 Processing students eliminated from OTS.

If member being eliminated is to be processed for		RULE			
		1	2	3	4
A	discharge and is a nonprior service applicant (civilian)	Yes			
B	reassignment and is a nonprior service applicant (civilian)		Yes		
C	reassignment and is a prior service applicant (active duty)			Yes	
D	discharge or reassignment and is a USAFR or ANG candidate				Yes
then					
E	complete DD Form 785, indicating specific reason(s) for elimination and recommendation for future officer training.	X	X	X	X
F[1]	cancel projected officer accession in the APDS.	X	X	X	
G	adjust grade when required.		X	X	
H	contact trainee's servicing MAJCOM for reassignment instructions.		X	X	
I	when trainee elects in writing to complete enlistment contract on active duty, election statement is filed in the UPRG. When retention is elected, trainee may not request separation under the authority of this directive at a future date.		X		
J	when trainee requests, cancel enlistment extension under AFR 35–16, volume 1 (see table 7, rule 8).			X	
K	period of service in the airman grade as an officer trainee is counted when computing the service remaining under the original contract.		X	X	X
L	send a copy of the approved board proceedings to HQ AFRES, Robins AFB GA 31098, for USAFR trainees.				X
M	send a copy of the approved board proceedings to the Chief, NGB, Wash DC 20310, for ANG trainees.				X

BEST DOCUMENT AVAILABLE

PART 903—AIR FORCE ACADEMY PREPARATORY SCHOOL

Sec.
903.1 Purpose.
903.2 Preparatory school.
903.3 Yearly schedule.
903.4 School location.
903.5 Who is eligible.
903.6 When to apply.
903.7 Application procedures.
903.8 Selection procedures.
903.9 Notification of selection or nonselection.
903.10 Disenrollment.
903.11 Reassignment of students who are disenrolled or not offered an appointment to a service academy.
903.12 Reassignment of regular and reserve members of the Air Force and regular members of the Army, Navy, and Marine Corps who accept an appointment to a service academy.
903.13 Reserve enlistment procedures.
903.14 Sample letter.
903.15 Statement.

AUTHORITY: 10 U.S.C. 8012, except as otherwise noted.

SOURCE: 44 FR 47929, Aug. 16, 1979, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation 53-14, May 22, 1979.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 903.1 Purpose.

This part tells how to apply for the Air Force Academy Preparatory School Program. It also explains the procedures for selection, disenrollment, and assignment. NOTE: This part is affected by the Privacy Act of 1974. The systems of records prescribed here are authorized by Headquarters USAF (AFOMO 126) letter, April 11, 1969; and 10 U.S.C. 8012. Each form that is subject to AFR 12-35, paragraph 30, and is required by this part has a Privacy Act Statement, either incorporated in the body of the document or in a separate statement accompanying the document.

§ 903.2 Preparatory school.

The mission of the United States Air Force Academy Preparatory School (USAFAPS) is to prepare and evaluate selected personnel for entrance into the Cadet Wing of the United States Air Force Academy. It provides in-depth instruction in mathematics, English, and the basic sciences, to enable students to qualify for entering into the Cadet Wing.

§ 903.3 Yearly schedule.

Classes are conducted each year from July to early May. A limited number of Regular and Reserve airmen may be enrolled at appropriate times after the July starting date.

§ 903.4 School location.

The USAFAPS is located at the United States Air Force Academy near Colorado Springs, Colorado.

§ 903.5 Who is eligible.

To be eligible, USAFAPS candidates must:

(a) Be at least 17 years old and not have passed their 21st birthday by July 1 of the year to be admitted.

(b) Be a citizen of the United States.

(c) Be unmarried and have no dependent children.

(d) Be on extended active duty. Air Force Reserve or Air National Guard members may apply while not on extended active duty but must agree to a call to active duty if selected to attend. Air National Guard members selected to attend will be transferred to the Air Force Reserve prior to being called to active duty.

(e) Agree, if a Regular member of the Armed Forces, to extend his or her current enlistment, if the obligated tour of duty or enlistment contract expires prior to the date of preparatory school graduation.

(f) Be medically qualified for an appointment to the Air Force Academy.

(g) Achieve a satisfactory score on the Scholastic Aptitude Test (SAT) offered by the Educational Testing Service, or on the American College Testing (ACT) program tests, or on the Air Force Academy Selection Test.

(h) Have an acceptable academic record as determined by the Air Force Academy Director of Cadet Admissions.

(i) Not have previously attended a service academy preparatory school.

(j) Have received a nomination to the Air Force Academy, if a Regular member of the Army, Navy, or Marine Corps.

(k) Have completed Basic Training, if a Reserve airman entering after normal July entry date.

§ 903.6 When to apply.

(a) Regular and Reserve members of the Air Force must send a complete application to the Air Force Academy Director of Cadet Admissions not later than May 1.

(b) Regular members of the Army, Navy, or Marine Corps who are nominated for an appointment to the Air Force Academy must establish their eligibility for nomination by May 1.

§ 903.7 Application procedures.

(a) Regular and Reserve members of the Air Force must send the following through their organization commander and servicing CBPO (active duty only) to the Air Force Academy Director of Cadet Admissions.

(1) AF Form 1786, Application for Appointment to the United States Air Force Academy Under Quota Allotted to Enlisted Members of the Regular and Reserve Components of the Air Force.

(2) A certified transcript from each high school, civilian preparatory school, or college that the applicant attended.

(b) Regular members of the Army, Navy or Marine Corps must request enrollment by sending a letter as shown in § 903.14 to the Air Force Academy Director of Cadet Admissions through their organization commander.

(c) The organization commander is responsible for:

(1) Sending the following to the Air Force Academy Director of Cadet Admissions (for active duty Air Force personnel, the commander will send the completed application to the servicing CBPO):

(i) An AF Form 1786 for a Regular or Reserve member of the Air Force, or a letter requesting enrollment by a Regular member of the Army, Navy, or Marine Corps.

(ii) Certified transcripts from each high school, civilian preparatory school, or college attended by the applicant.

(iii) One copy of the applicant's most recent Airman Performance Report (AF Form 909 or 910, as applicable).

(iv) One copy of the applicant's Report of Individual Report (RIP).

(v) A recommendation for selection or nonselection which gives a full description of the applicant's character and suitability for the Preparatory School program and includes the following statement: "Information regarding component, length of service, and date of birth have been verified from official records."

(d) The servicing CBPO (for active duty personnel) is responsible for:

(1) Making sure that the applicant is assigned an Assignment Availability Code "05" IAW table 3-3, AFR 39-11.

(2) Sending the application to the Air Force Academy Director of Cadet Admissions.

§ 903.8 Selection procedures.

Applicants are selected for enrollment by the Air Force Academy on the basis of test scores, medical examination, prior academic record, recommendation of the organization commander, and other reports and records which indicate the applicant's aptitude, achievement, or ability to complete the program successfully.

§ 903.9 Notification of selection or nonselection.

(a) When applicable, the Air Force Academy Director of Cadet Admissions will send a notice of nonselection for Air Force personnel, to the applicant and the servicing CBPO.

(b) Upon receipt of a notice of nonselection, the servicing CBPO for Regular members of the Air Force will cancel the applicant's Assignment Availability Code 05.

(c) Upon selection of Air Force personnel to attend the USAFAPS, the Air Force Academy Director of Cadet Admissions will notify the Air Force Academy CBPO/DPMUM of the selectee's name, grade, SSAN, AFSC, and unit of assignment. The Air Force Academy CBPO will insure that the selectee is assigned to the USAFAPS, USAF Academy CO 80840.

(d) The Department of Defense Medical Examination Review Board (DODMERB) will notify applicants of their medical status.

(e) Air Force personnel entering the USAF Academy Preparatory School will enter in the highest active duty grade they held as of the date of entrance without change to DOR or effective date. Future promotions will be in accordance with AFR 39-29.

§ 903.10 Disenrollment.

Students may be disenrolled when the Commander of the Prep School determines that one or more of the following conditions exist:

(a) The student has failed to meet and maintain academic standards.

(b) The student has failed to demonstrate adaptability and suitability for the Air Force Academy academic, military, or physical training programs.

(c) The student's conduct is unsatisfactory.

(d) The student's retention in the program is not in the best interests of the government.

(e) The student marries.

(f) The student becomes medically disqualified for an appointment to the Air Force Academy.

(g) The student request disenrollment.

§ 903.11 Reassignment of students who are disenrolled or not offered an appointment to a service academy.

These students will be reported by USAFA/FL to USAFA/DPMU.

(a) Regular Air Force members will be reported by USAFA/DPMU to AFMPC/MPCRAC 3 for reassignment as follows:

(1) Name, grade, and SSAN.

(2) CAFSC, PAFSC, and any additional AFSCs.

(3) Former unit, base, and command of assignment.

(4) DOS.

(5) ODSD/STRD and last area of oversea assignment.

(6) Oversea volunteer status.

(7) Assignment preferences.

(8) Assignment deferment status.

(9) Reason for reassignment action.

(10) Statement as to the airman's possible appointment to another service academy.

(b) Air Force reservists are reassigned as follows:

(1) Reserve Air Force members called to active duty solely to attend the school will be discharged from the United States Air Force under the authority of this part and AFR 39-10.

(2) Reserve Air Force members previously assigned to a Reserve Unit will be released from active duty and reassigned to the Air Reserve Personnel Center under the authority of this part and AFR 39-10.

(3) Air National Guard members previously assigned to an ANG unit will be released from active duty and reassigned to the appropriate State Adjutant General under the authority of this part and AFR 39-10.

(c) Regular members of the other services will be reported as follows:

(1) Members of the Navy will be reported to the Officer-in-Charge, NAVUN Lowry, Colorado Springs Detachment, 801 Prospect Lake Drive, Colorado Springs CO 80901.

(2) Members of the Army will be reported as currently specified in AR 600-635.

(3) Members of the Marine Corps will be reported to MARTU, MARTC, Denver CO 80240.

§ 903.12 Reassignment of regular and reserve members of the Air Force and regular members of the Army, Navy, and Marine Corps who accept an appointment to a service academy.

(a) Regular and Reserve Airmen will be released from enlisted active duty and will be reassigned as active duty Air Force Academy cadets, to be effective on the date of entry into the Academy in accordance with:

(1) DAF Letter, "Members of the Armed Forces Appointed to a Service Academy," July 8, 1957.

(2) 10 U.S.C. 516, 8201, 8203, 8205, and 8214.

(3) AFR 39-10.

(b) Records for Regular and Reserve members of the Air Force who enter the Air Force Academy will be retained by the Academy until the airman is commissioned or disenrolled. These members will not be issued DD Form 214, Report of Separation from Active Duty.

(c) Records for Regular Airmen who enter one of the other academies will be forwarded to AFMPC/MPCDOB for processing.

(d) Regular airmen who enter any of the three service academies will be required to sign the statement shown at § 903.15.

(e) Regular members of the Army, Navy, or Marine Corps who enter the Air Force Academy will be reported to the appropriate service as shown in § 903.11(c).

(f) HQ USAFA/DPMQS will publish relieved from active duty orders for USAF Academy Preparatory School students who are regular and reserve airmen and who, upon completion of the USAF Academy Preparatory School, accept appointments to a service academy.

§ 903.13 Reserve enlistment procedures.

The enlistment into the Air Force Reserve of civilian selectees for the USAF Academy Preparatory School will be accomplished as follows:

(a) The Office of Cadet Admissions and Registrar (RRS), USAF Academy, CO, will send to each selectee a DD Form 1966, Application for Enlistment-Armed Forces of the United States, with instructions for its completion. The selectee will be instructed to send the completed DD form 1966 to HQ ARPC/DPRPP, Denver CO 80280. A preaddressed envelope will be provided for this purpose.

(b) Upon receipt of the completed DD Form 1966, HQ ARPC/DPRPP will review the form for completion and acceptance of the applicant for enlistment.

(c) If the applicant is acceptable for enlistment, HQ ARPC/DPRPP will complete a DD Form 4, Enlistment or Reenlistment Agreement—Armed Forces of the United States, for each applicant.

(d) HQ ARPC/DPRPP and the USAF Academy Preparatory School will be responsible for administering the oath of enlistment for each applicant. This oath is administered on the date of inprocessing at the USAF Academy Preparatory School, and the effective date of enlistment is the date the applicant took the oath.

(e) HQ ARPC/DPRPP will publish Reserve Orders placing the applicant on active duty for the purpose of attending the USAF Academy Preparatory School. The school will determine the date of call to active dute (usually, this is the date the applicant was administered the oath of enlistment). HQ ARPC/DPRPP will give copies of the orders to the CBPO/DPMA, USAF Academy CO 80840 on the date of inprocessing.

§ 903.14 Sample letter.

Subject: Application To Attend Air Force Academy Preparatory School.

Thru: Organization Commander.

To: USAFA/RRS USAF Academy CO 80840.

1. I hereby apply under the provision of AFR 53-14 to attend the Air Force Academy Preparatory School for Air Force Academy candidates.

2. (Use appropriate sentence(s) listed below):

a. I have been nominated by (indicate name of Senator/Representative) for appointment to the Air Force Academy.

b. I have applied for candidacy to the Air Force Academy under the following competition(s) (list those that apply)

Presidential.

Sons or Daughters of Deceased or Disabled Veterans.

Sons or Daughters of Medal of Honor Recipients.

3. (Use appropriate sentence(s) listed below):

a. My academic transcripts are attached.

b. My academic transcripts are being requested from the appropriate school officials. They will mail them to the Director of Cadet Admissions, USAFA/RRS. I last attended (name of high school, college, or preparatory school), (address of school).

4. I was born on (day) (month) (year). My present enlistment expires (day) (month) (year).

NAME, Grade, Branch of Service.

SSAN.

Organization.

Location.

Telephone No.

NOTE: To be used only by military nominee—see § 903.7(b) (Army, Navy, and Marine Corps only) (Regular and Reserve Air Force applicants must use AF Form 1786).

§ 903.15 Statement.

Upon acceptance as a Cadet in the ———— Academy, effective ———— I understand that in accordance with the provisions of Public Law No. 614, 84th Congress, should my appointment be terminated for reasons other than acceptance of a commission in a Regular or Reserve component of the Armed Forces, or for physical Disability, I will revert to my former enlisted or inducted status in effect immediately prior to acceptance of appointment as a cadet in the ———— for the purpose of completing any remaining active and inactive service required under my enlistment contract or my service obligation under the Universal Military Training and Service Act, or both, as appropriate. I further understand that any time served as a Cadet shall be counted as time served under my enlistment contract or period of obligated service, or both, as appropriate.

PARTS 904–908 [RESERVED]

PART 909—USAF TRAINING FOR CONTRACTOR EMPLOYEES

Sec.

909.1 Purpose.
909.2 Policy on training contractor employees of the Air Force.
909.3 Policy on training contractor employees of other U.S. Government agencies.
909.4 Access to classified information.
909.5 USAF schools.
909.6 How contractors apply for training.
909.7 Air Force review of contractor requests for training.
909.8 What the Major Command conducting the training does.
909.9 Processing requests from other Government agencies.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: 45 FR 6381, Jan. 28, 1980, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation 50-55, September 23, 1977.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 909.1 Purpose.

This part tells when and how USAF training may be given to employees of private organizations under contract with the Air Force and other U.S. Government agencies to provide equipment or services. It applies to contractors and USAF major commands.

§ 909.2 Policy on training contractor employees of the Air Force.

These employees may receive training at USAF schools, on-the-job at an Air Force base, or through existing contracts for training:

(a) If the contract (to provide equipment or services) specifically provides for such training.

(b) If the contract (for equipment or services) does not specifically provide for training, the Air Force contracting officer:

(1) Decides whether the training will be of material and direct benefit to the Air Force.

(2) Obtains from the major command conducting the course a determination that the training is:

(i) Within Air Force manpower and fiscal resources;

(ii) Available in regularly established courses; and

(iii) Not reasonably available from a source outside the Air Force.

§ 909.3 Policy on training contractor employees of other US Government agencies.

These employees may attend training for which the Air Force is the executive agent, and joint services courses offered by Air University/Air Force Institute of Technology (see § 909.9).

§ 909.4 Access to classified information.

If training will require the presentation of classified national security information, the employee must have a current security clearance commensurate with the category of the classified information. The trainee may have access to classified national security information only if there is a demon-

strated need to know (see § 909.7(b)(3)).

§ 909.5 USAF schools.

The term "USAF schools" includes any formal school or course conducted either by the USAF or by a contractor under contract with the USAF.

§ 909.6 How contractors apply for training.

An Air Force contractor that desires training under this part for its employees must send a written request to the major command conducting the course. At least 45 days before the training starts, the contractor sends the request through the contracting officer who administers the contract for which the training is needed. The request must show:

(a) Name, address, and security clearance of each employee.

(b) Enough information to make the determinations under §§ 909.2(b) and 909.4.

(c) When flight training is requested, a complete history of each employee's flying experience.

§ 909.7 Air Force review of contractor requests for training.

After the contracting officer receives a request for contractor employee training, he or she decides whether there is a USAF need for that training.

(a) If there is no USAF need for the training, he or she returns the request to the contractor with an explanation.

(b) If there is a USAF need for the training, he or she:

(1) Certifies whether the Air Force is paying the contractor for that training; and if so, certifies that fair adjustment has been made in the contract.

(2) If the training does not require the disclosure of classified national security information, sends the request to the command conducting the course, with a statement that the training is required for the performance of the Air Force contract.

(3) If the training will involve the disclosure of classified national security information, verifies that the request includes enough information to comply with § 909.4; and sends it to the command conducting the course, with a statement that the training is required for the performance of the Air Force contract.

(4) Decides whether an agreement with the contractor, under which the contractor agrees to indemnify the Government for any and all loss or liability due to the injury or death of a contractor employee, is needed to protect the Government's interest and can be obtained at reasonable cost; and sends, with the contractor's request for training, either:

(i) An indemnification agreement; or

(ii) A statement that such an indemnification agreement is not needed.

§ 909.8 What the Major Command conducting the training does.

(a) If the request complies with §§ 909.2(b) and 909.4, arranges for the training and allocates quotas.

(b) If the request does not comply with §§ 909.2(b) and 909.4, disapproves it and returns it.

(c) If the request is for training contractor employees in a course already being conducted under contract with the USAF, contractor employees may attend if the quotas or training services do not cause additional tuition cost to the USAF. This authorization does not include establishing quotas or contracting for training services over USAF training requirements.

§ 909.9 Processing requests from other Government agencies.

(a) Other US Government agencies that need to have their contractor employees attend Air Training Command courses may send a request to the Air Training Command (ATC/TTP), Randolph AFB TX 78148, at least 45 days before the training starts. The agency must include this information in its request:

(1) Name, address, and certification of security clearance of each employee.

(2) Date training should begin.

(3) Name and location of course, or an explanation of type of training desired.

(4) If flight training is requested, a complete history of each employee's flying experience.

(5) Indemnification agreement required by § 909.7(b)(4).

(b) If ATC grants the request, it will plan the training and allocate quotas to the requesting agency.

(c) If ATC finds that the training is either not needed or cannot be given, it returns the request to the agency with an explanation.

(d) Requests for quotas in joint services courses offered by Air University/Air Force Institute of Technology must be sent to Air University (AU/ED), Maxwell AFB AL 36112, at least 45 days before the class starts.

90-112 O—82——39

SUBCHAPTER I—STANDARDS OF CONDUCT

PART 920—STANDARDS OF CONDUCT

Subpart A—General

Sec.
920.1 Purpose.
920.2 Terms explained.
920.3 Applicability.
920.4 Ethical standards of conduct.
920.5 Bribery and graft.
920.6 Gratuities.
920.7 Prohibition of contributions or presents to superiors.
920.8 Using Government facilities, property, and manpower.
920.9 Using civilian and military titles in connection with commercial enterprises.
920.10 Outside employment of Air Force personnel.
920.11 Gambling, betting, and lotteries.
920.12 Indebtedness.
920.13 Information to personnel.
920.14 Confidential statement of affiliations and financial interests (DD Form 1555).
920.15 Reporting suspected violations.

Subpart B—Conflict of Interest Laws

920.16 Full-time officers and employees.
920.17 Special Government employees.
920.18 Reports of Defense related employment.
920.19 Former officers or employees.
920.20 Retired Regular officers.
920.21 Officers of the Reserve components.

Subpart C—Special Government Employees; Advisers and Consultants; Temporary or Intermittent Employees

920.22 General.
920.23 Temporary or intermittent employees.

Subpart D—Disposition of Forms

920.24 Disposition of DD Form 1555.

Subpart E—Miscellaneous

920.25 Receipt and disposition of honoraria and providing expert testimony before State agencies.
920.26 Laws applicable to all Department of Defense personnel.
920.27 Gratuities additional guidance.
920.28 Confidential statement of affiliations and financial interests (DD Form 1555) additional guidance.
920.29 Special Government employees.
920.30 Special instructions regarding receipt and disposition of honoraria; and providing expert testimony before state agencies.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: 44 FR 26871, May 8, 1979, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation 30.30, December 29, 1978.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

Subpart A—General

§ 920.1 Purpose.

(a) This part explains Air Force personnel standards of conduct that relate to possible conflict between private interests and official duties, regardless of assignment. Close adherence to these principles will ensure compliance with the high ethical standards demanded of all public servants. Violations of the specific prohibitions and requirements of this part by military personnel may result in prosecution under the Uniform Code of Military Justice (UCMJ). Violations of this part by Air Force civilian employees may result in appropriate disciplinary action without regard to the criminal liability issue. Administrative action, such as reprimand, may be taken with regard to military members and civilian employees who violate any requirements of this part even if such violations do not constitute criminal misconduct. This part implements DOD Directive 5500.7, January 15, 1977. It further implements Executive Order 11222, May 8, 1965, prescribing standards of ethical conduct for Government officers and employees and the Civil Service Commission regulations of October 1, 1965. It is in agreement with the Code of Ethics for Government Service in House Concurrent Resolution 175, 85th Congress, that applies to all Government personnel. It includes standards of conduct based

on the revisions of the conflict of interest laws enacted in 1962 (Pub. L. 87-777 and Pub. L. 87-849), as amended. This part applies to all Air Force personnel and activities.

(b) This part is affected by the Privacy Act of 1974. Each form that is required by this part has a Privacy Act Statement incorporated either in the body of the document or in a separate attachment accompanying each such document.

§ 920.2 Terms explained.

(a) *DOD personnel.* As used in this part unless the context indicates otherwise, all civilian officers and employees, special Government employees, of all the offices, agencies, and departments in the Department of Defense (including nonappropriated fund activities) and all active duty officers and enlisted members of the Army, Navy, Air Force, and Marine Corps (officers includes commissioned and warrant).

(b) *Air Force personnel.* As used in this part, unless the context indicates otherwise, all civilian officers and employees, special Government employees, in the Department of the Air Force (including nonappropriated fund activities) and all active duty officers and enlisted members of the Air Force (officers includes both commissioned and warrant).

(c) *Reserve officers.* Includes both officers of the Air National Guard of the United States and Air Force Reserve.

(d) *Gratuity.* Any gift, favor, entertainment, hospitality, transportation, loan, any other tangible item, and any intangible benefits. For example, discounts, passes, and promotional vendor training, given or extended to or on behalf of Air Force personnel, their immediate families, or households for which fair market value is not paid by the recipient or the US Government.

§ 920.3 Applicability.

All Air Force personnel must be familiar and comply with this part.

§ 920.4 Ethical standards of conduct.

(a) Air Force personnel must not take part in any personal, business, or professional activity, or receive or retain any direct or indirect financial interest, that places them in a position of conflict between their private and public interests of the United States that relate to their responsibilities as Air Force personnel, and to the duties or responsibilities of their Air Force jobs. For the purpose of this prohibition, the private interests of a spouse, or minor child, and any household members are treated as Air Force personnel private interests. Air Force personnel:

(1) Must not use, directly or indirectly, any Air Force information to further a private gain (for themselves or others) if that information is not generally available to the public and was obtained through their Air Force jobs.

(2) Are not allowed to use their Air Force positions to induce, coerce, or to influence a person (including subordinates) in any way to provide any benefits, financial or otherwise, to themselves or others.

(3) May have financial interests or engage in financial transactions to the same extent as private citizens not employed by the Government as long as they are not prohibited by the law or this part.

(b) *Dealing with present and former military and civilian personnel.* Air Force personnel must not knowingly deal with military or civilian personnel or former military or civilian personnel of the Government, if such action violates a statute or a policy in this part.

(c) *Membership in associations.* All Air Force personnel who are members or officers of nongovernmental associations or organizations must avoid activities for such association or organization that are not compatible with their official Government positions. Further, Air Force personnel must not accept an honorary office or an honorary membership in any trade or professional association whose membership includes business entities that are engaged, or are endeavoring to engage, in providing goods or services to a Department of Defense (DOD) component (including any nonappropriated fund activity of the DOD). An honorary office includes any position, whether termed honorary or not, selected on the basis of an official DOD function or assignment (see AFR 30-9,

Meetings of Technical, Scientific, Professional or Similar Organizations).

(d) *Commercial soliciting by Air Force personnel.* To eliminate the appearance of coercion, intimidation, or pressure from rank, grade, or position, Air Force personnel (except special Government employees), are prohibited from making personal commercial solicitations or sales to DOD personnel who are junior in rank or grade, at any time, on or off-duty.

(1) This limitation includes, but is not limited to, the soliciting and selling of insurance, stocks, mutual funds, real estate, and any other commodities, goods, or services.

(2) This prohibition does not apply to the one-time sale by an individual of personal property or a privately owned dwelling. Neither does it apply to employing off-duty DOD personnel in retail stores or other situations that do not include solicited sales.

(3) For civilian personnel, the limitation applies only to personnel under their supervision at any level.

(e) Assigning Reserves for training. Air Force personnel who are responsible for assigning Reserves for training must not assign them to duties in which they will get information that could be used by them or their private sector employers to the disadvantage of civilian competitors.

(f) *Conduct prejudicial to the Government.* Air Force personnel must not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct or other conduct prejudicial to the Government. Moreover, Air Force personnel must avoid any action, whether or not specifically prohibited by this part, that might result in, or create the appearance of:

(1) Using public office for private gain;

(2) Giving preferential treatment to any person;

(3) Impeding Government efficiency or economy;

(4) Losing complete independence or impartiality;

(5) Making a Government decision outside official channels; or

(6) Affecting adversely the confidence of the public in the intergrity of the Government.

(g) Air Force personnel must scrupulously adhere to the Air Force program of equal opportunity regardless of race, color, religion, sex, age, or national origin, as set out in AFR 30-2, Social Actions Programs.

§ 920.5 Bribery and graft.

In general, Air Force personnel may be subject to criminal penalties if they solicit, accept or agree to accept anything of value in return for performing or refraining from performing an official act (see 18 U.S.C. 201).

§ 920.6 Gratuities.

(a) *Policy basis.* Air Force personnel or their families who accept gratuities, no matter how innocently tendered and received, from those who have or seek business with DOD and from those whose business interests are affected by Department functions may:

(1) Be a source of embarrassment to the Department;

(2) Affect the objective judgment of the DOD personnel involved; and

(3) Impair public confidence in the integrity of the Government.

(b) *General prohibition.* Except as provided in § 920.27, Air Force personnel and their immediate families must not solicit, accept, or agree to accept any gratuity for themselves, members of their families, or others, either directly or indirectly from, or for any source that:

(1) Is engaged in or seeks business or financial relations of any sort with any DOD Component;

(2) Conducts operations or activities that are either regulated by a DOD Component or significantly affected by DOD decisions; or

(3) Has interests that may be substantially affected by the performance or nonperformance of the official duties of DOD personnel. Section 920.27 sets out limited exceptions, additional guidance on gratuities, and procedures for disposition of unauthorized gratuities and is incorporated here by reference.

(c) Procedures that concern gifts from foreign governments are in Part 826 of this chapter and AFR 900-48, Decorations Service Awards, Unit Awards, Special Badges, Favorable

Communications Certificates and Special Devices.

(d) Procedures that concern AFROTC staff members are in AFR 45-5, Benefits offered by Educational Institutions to AFROTC Staff Members.

(e) Procedures for accepting accommodations, subsistence, or services furnished in kind in connection with official travel, from other than Defense contractors, are in § 920.27.

§ 920.7 Prohibition of contributions or presents to superiors.

Air Force personnel must not solicit a contribution from other DOD personnel for a gift to an official superior, make a donation or a gift to an official superior, or accept a gift from other subordinate DOD personnel. However, this section does not prohibit voluntary gifts or contributions of nominal value on special occasions such as marriage, illness, transfer, or retirement, provided any gifts acquired with such contributions shall not exceed a reasonable value.

§ 920.8 Using Government facilities, property, and manpower.

Air Force personnel must not directly or indirectly use, or allow the use of, Government property or resources of any kind, including property leased to the Government for other than officially approved activities. Government facilities, property, and manpower (such as stenographic and typing assistance, mimeograph and chauffeur services) must be used only for official Government business. Air Force personnel have a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted to them. This section is not intended to preclude using Government facilities for activities that would further military-community relations provided they do not interfere with military missions.

§ 920.9 Using civilian and military titles in connection with commercial enterprises.

(a) Full time Air Force civilian employees or military persons on active duty are not allowed to use their civilian and military titles or jobs in connection with any commercial enterprise or for endorsing a product. For the purpose of this section, the term "commercial enterprise" is any organization except those that are found in 26 U.S.C. 501(b), subsections (1), (3), (4), (6), (7), (8), (9), (10), (11), (13), or (14). Air Force civilian employees and military personnel on extended active duty must not use their civilian or military title or job in connection with any organization or entity unless they first determine that the organization or entity involved is exempt from the tax laws in one of the above subsections of 26 U.S.C. 501(c). Individuals may use their military or civilian title or job on publications to identify them as author of such books, provided that the material is published according to § 920.10(c) and has been cleared under existing Air Force procedures (see AFR 190-12, Release of Unclassified Information to the Public and AFM 190-9, Information Policies and Procedures).

(b) All retired military personnel and all members of Reserve components, not on active duty, are permitted to use their military titles in connection with commercial enterprises if they indicate their reserve or retired status. Such use of military titles must in no way cast discredit on the Air Force or DOD. Such use is also prohibited in connection with commercial enterprises if such use (with or without the intent to mislead) gives rise to any appearance of sponsorship, sanction, indorsement, or the Air Force or DOD approval. The Air Force may restrict retired personnel and members of Reserve components not on active duty from using their military titles in connection with public appearances in oversea areas.

§ 920.10 Outside employment of Air Force personnel.

(a) Air Force personnel must not engage in outside employment or other outside activity, with or without compensation, that:

(1) Interferes with, or is not compatible with performing their Government duties.

(2) May reasonably be expected to bring discredit on the Government or DOD; or

(3) Is otherwise inconsistent with the requirements of this part. These requirements include avoiding actions and situations that reasonably may appear to create conflicts of interests.

(b) An Air Force enlisted member on active duty may not be ordered or permitted to leave one's post to engage in a civilian pursuit or business, or perform in civil life (for emolument, hire, or otherwise) if the pursuit, business, or performance interferes with the customary or regular employment of local civilians in their art, trade, or profession (10 U.S.C. 974).

(c) Air Force personnel are encouraged to engage in teaching, lecturing, and writing.

(1) However, employees must not, engage in teaching, lecturing or writing (either for or without compensation), if used to prepare a person or a special class for an examination of the Civil Service Commission Board of Examiners for the Foreign Service, or any other Government examination that is dependent on information obtained as a result of their Government employment. Such information may be used if it has been published or is available to the general public or will be made available on request, or when the agency head gives written authorization for the use of nonpublic information on the basis that the use is in the public interest (see § 920.30).

(2) In addition, employees who are civilian Presidential appointees must not receive pay or anything of monetary value for any consultation, lecture, discussion, writing, or appearance, if the subject matter is devoted substantially to the responsibilities, programs, or operation of the employee or draws substantially on official data or ideas that have not become part of the body of public information.

(d) A military member may engage in off-duty employment with an organization involved in a strike if the member was on the payroll of such organization before the strike started and if the employment conforms with the requirements of this part. A military member may not accept employment by an organization at a location where that organization is involved in a strike after it starts and during the course of such a strike. Members who are engaged in off-duty civilian employment that does not meet the above policy are required to terminate such employment.

(e) This section does not preclude Air Force personnel from taking part in:

(1) Activities of national or state political parties not prescribed by law or regulation.

(2) Affairs or accepting an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational, nonprofit recreational, public service or civic organization.

(f) Each major commander and each head of a separate operating agency will insure that local implementing regulations require, at least, that Air Force personnel get local commander approval for any off-duty employment with a firm or other entity that is engaged, or is endeavoring to engage, in business transactions of any kind with a DOD agency. Local commanders must set internal administrative procedures to evaluate each request submitted and notify the applicant whether the proposed off-day employment is in consonance with this part.

§ 920.11 Gambling, betting, and lotteries.

Air Force personnel must not take part in any gambling activity while on Government-owned or leased property, or while on duty for the Government. This includes operating a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket. However, the section does not preclude activities:

(a) Necessitated by an employee's law enforcement duties; or

(b) Under Section 3 of Executive Order 10927, and similar Air Force approved activities, including those indicated in AFR 34-3, Morale, Welfare, and Recreation Basic Responsibilities, Policies and Practices, volume IV, chapter 4 and AFR 215-1, Open Mess Program, volume XI, chapter 8, or as otherwise authorized.

§ 920.12 Indebtedness.

Air Force personnel must pay each just financial obligation in a proper and timely manner, especially one imposed by law, such as Federal, state, or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, and "in a proper and timely manner" means in a manner that the agency determines does not, under the circumstances reflect adversely on the Government as the employer. In the event of dispute between Air Force personnel and an alleged creditor, this section does not require the Air Force to determine the validity or amount of the disputed debt.

§ 920.13 Information to personnel.

Commanders must make sure that the standards of conduct are brought to the attention of all Air Force personnel. An oral standards of conduct briefing as herein provided must be given, and a copy of this part be made readily available to all Air Force personnel. Those desiring a copy for personal retention shall be provided one.

(a) For civilian employees and military officers, the oral standards of conduct briefing will be a part of the orientation briefing preceding initial employment with the Air Force (civilians) and first reporting for Air Force duty (officers). Air Force officers and civilian employees receiving such briefings shall indicate in writing that they have read the standards of conduct (§§ 920.4 and 920.6 as a minimum) and that they understand the requirements imposed.

(b) Enlisted personnel also must be given oral standards of conduct briefings and indicate in writing that they attended. This may be accomplished at the same time as the explanations required by 10 U.S.C. 937.

(c) All Air Force personnel must be reminded by appropriate means at least twice a year of their duty to comply with required standards of conduct. In this connection:

(1) The Deputy for Manpower and Personnel (1947 ASG/DMPM) makes sure that these requirements are met within HQ USAF;

(2) The Commander of the Air Force Reserve is responsible for making sure that active status reserve personnel not on active duty as well as all active duty military and civilian personnel under the commander's jurisdiction comply with these requirements;

(3) The Chief of the National Guard Bureau makes sure that all personnel of the Air National Guard of the United States (including technicians and other civilian employees) comply with these requirements.

(d) All Air Force personnel are advised that they may seek additional clarification of the standards of conduct in this part and related statutes from the local legal office that provides legal service to their organization or activity. For this purpose:

(1) Each base and other commander who is responsible for providing legal service to personnel designates the Staff Judge Advocate, and, if necessary, one or more Judge Advocates to be Deputy Standards of Conduct Counselors. The Deputy Counselors are responsible for providing advice and assistance to such personnel on all matters that relate to standards of conduct and conflicts of interest covered by this part. They are also responsible for reviewing DD Forms 1555, "Confidential Statement of Affiliations and Financial Interests."

(2) The Deputy Counselor for Air Force personnel at duty locations not assigned an Air Force Staff Judge Advocate is the Staff Judge Advocate of the Air Force major command nearest to their duty location, unless their US Government superior or higher US Government authority specifically designates another as Deputy Counselor.

(3) The Judge Advocate General, or designee, is the Deputy Counselor responsible for these functions in the Air Staff.

(4) The General Counsel of the Air Force is responsible for these functions in the Office of the Secretary of the Air Force and is the Air Force Standards of Conduct Counselor.

(e) Questions that cannot be resolved by the local legal office are referred, with recommendations, through channels to higher authority. The General Counsel of the Depart-

ment of the Air Force, Office of the Secretary of the Air Force, is responsible for proper coordination and final disposition of all problems that relate to conflict of interest, including those that relate to reviewing DD Forms 1555.

(f) Except as specifically provided in this part waivers of and exceptions to the requirements of this part may be authorized or approved only by the Secretary of the Air Force. It is emphasized that many of the requirements of this part are based on legal requirements and cannot be waived.

§ 920.14 Confidential statement of affiliations and financial interests (DD Form 1555).

(a) Full-time Air Force personnel in the following categories are required to keep current and submit, a DD Form 1555, according to the instructions contained in § 920.28.

(1) Air Force personnel paid at the Executive Schedule level in 5 U.S.C. Chapter 53, subchapter II.

(2) Air Force personnel classified at GS–13 or above under 5 U.S.C. 5332 or at a comparable pay level under another authority; also members of the military in the rank of Lieutenant Colonel or above whose basic duties and responsibilities require the incumbent to exercise judgment in making a Government decision or in taking Government action that concerns administering or monitoring grants or subsidies.

(3) Air Force personnel classified at GS–13 or above under 5 U.S.C. 5332 or at a comparable pay level under another authority; also members of the military in the rank of Lieutenant Colonel or above whose basic duties and responsibilities require the incumbent to exercise judgment in making a Government decision or in taking Government action in regard to:

(i) Contracting or procurement;

(ii) Auditing; or

(iii) Other activities in which the final decision or action has a significant economic impact on the interests of any non-Federal enterprise.

(4) Air Force general officers and all civilian officers and employees paid at GS–16 to GS–18 grade-level under 5 U.S.C. 5332.

(5) Commanders and Vice Commanders of Divisions and Wings.

(6) Base Commanders and Deputy Base Commanders of major installations.

(7) Special Government employees who are "advisers" or "consultants" (see § 920.22).

(b) Section 920.28 has additional guidance and instructions that concern this section. All personnel described in § 920.14(a) will read § 920.28 and comply with requirements that apply to them. In addition, each superior, each deputy counselor, and the officer responsible for the central civilian personnel office at each employing activity must read and comply with § 920.28.

(c) Personnel below the grade of Lieutenant Colonel or GS–13 (or comparable pay grade) are not required to submit a DD Form 1555; nor will anyone whose basic duties are not within the provisions of this section and § 920.28 be required to submit a DD Form 1555. The requirement to report financial holdings is limited to a very few key personnel, but this in no way limits the duty of each member of the Air Force to immediately call to the attention of their superior any situation that involves a conflict of personal versus public interests. Members of the Air Force may never make the decision whether a conflicting interest, no matter how insignificant, is or is not sufficient to influence one's own judgment. This decision is the responsibility of and must be made by an official as set out in § 920.16(d).

(d) Reports concerning status of "Statement of Affiliations and Financial Interests" (DD Form 1555) must be submitted no later than November 30, of each year. Each Air Force major commander must notify HQ USAF/JACM, Wash DC that all required statements and annual statements have been filed, reviewed, and any problems resolved or explain the details of outstanding cases.

§ 920.15 Reporting suspected violations.

Air Force personnel who have cause to believe that other DOD personnel have violated a statute or standard of

conduct imposed by this part should first bring the matter to their attention. If such persons are supervisors, or the communication is not expected to remedy or does not appear to have remedied the problem, the matter must be discussed with the proper Standards of Conduct Counselor or Deputy Counseler. If appropriate, the matter will then be reported according to Part 953 of this chapter.

Subpart B—Conflict of Interest Laws

§ 920.16 Full-time officers and employees.

(a) *Definition.* The term "full-time officer or employee" includes all civilian officers and employees, and all military officers on active duty, except those who are "special Government employees" (see § 920.17). It does not include enlisted personnel.

(b) *Prohibitions.* In general, a full-time officer or employee is subject to the following major prohibitions:

(1) They may not, except in discharging their official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest. This prohibition applies both to paid and unpaid representation of another (see 18 U.S.C. 203 and 205).

(2) They may not receive any salary, or supplementation of their Government salary, from a private source as pay for their services to the Government (see 18 U.S.C. 209).

(3) They may not take part (see Note in this paragraph) in their governmental capacity in any matter in which they, their spouse, minor child, outside business associate, or person with whom they are negotiating for employment has a financial interest (see 18 U.S.C. 208). Instead of taking part in such a matter, they must disqualify themselves at once in accordance with (d) of this section, except as provided in (c) of this section.

NOTE: A person may take part through decision, approval, disapproval, recommendation, giving advice, investigation, or otherwise.

(c) *Nondisqualifying financial interest.* Officers or employees need not disqualify themselves under paragraph (b)(3) of this section if the financial holdings are in shares of a widely held diversified mutual fund or regulated investment company. The indirect interests in business entities of these financial holdings come from ownership by the fund or investment company of stocks in business entities. They are hereby exempted from the requirements of 18 U.S.C. 208(a), as set out in 18 U.S.C. 208(b)(2), as too remote or inconsequential to affect the integrity of the Government officers' or employees' services.

(d) *Disqualification.* (1) Unless otherwise expressly authorized by action taken under 18 U.S.C. 208, all Air Force personnel who have affiliations or financial interests which create conflicts (or appearances of conflicts) of interest with their official duties must disqualify themselves from any official activities that are related to those affiliations, interests, or the entities involved. A formal disqualification notice must be sent to an individual's superior and immediate subordinates if it appears reasonably possible that the individual's official duties will affect those affiliations, interests, or entities. If individuals cannot adequately perform official duties after such disqualification, they must divest themselves of such involvement or be removed from those positions.

(2) For exemptions under 18 U.S.C. 208b(1) the "official responsible for the appointment" must be the immediate superior of the individual concerned who is serving in the grade of Colonel or above, GS-15 or above, or such other superior who is a full-time US Government officer or employee serving in the grade of Colonel, GS-15, or higher. All cases that involve determinations under 18 U.S.C. 208b(1) must be coordinated with the appropriate Standards of Conduct Counselor or Deputy Counselor.

(3) In addition, if a superior thinks that a subordinate employee may have a disqualifying interest, the superior must discuss the matter with that person and if the superior finds such an interest does exist, the superior must relieve the person of duty and responsibility in the particular matter or take other appropriate action to resolve the conflict (see § 920.28).

§ 920.17 Special Government employees.

(a) *Definition.* The term "special Government employee" includes an officer or employee who is retained, designated, appointed, or employed to perform (with or without pay) for not more than 130 days during any period of 365 consecutive days temporary duties, either on a full-time or intermittent basis (see 18 U.S.C. 202). The term also includes a Reserve officer on active duty solely for training for any length of time, one serving on active duty involuntarily for any length of time, and one serving voluntarily on extended active duty for 130 days or less. It does not include enlisted personnel.

(b) *Major prohibitions.* In general, special Government employees are subject to the following major prohibitions:

(1) They may not, except in discharging their official duties, represent anyone else:

(i) Before a court or Government agency in a matter in which the US is a party or has an interest and in which the employee has at any time participated personally and substantially for the Government (see 18 U.S.C. 203 and 205).

(ii) In a matter pending before the agency they serve unless they have served there no more than 60 days during the past 365 days (see 18 U.S.C. 203 and 205). They are bound by this restraint despite the fact that the matter is not one in which they have ever participated personally and substantially. The restrictions described in (b)(1)(i) of this section and in this subparagraph apply to both paid and unpaid representation of another.

(2) They may not take part in their governmental capacity in any matter in which their spouse, minor child, outside business associate, or person with whom they are negotiating for employment has a financial interest (see 18 U.S.C. 208). Instead of taking part in such a matter they must disqualify themselves at once according to § 920.16(d) except as provided in § 920.16(c).

(3) After their Government employment has ended, they are subject to the prohibitions in § 920.19(b) as a "former employee" (see 18 U.S.C. 207).

§ 920.18 Reports of Defense related employment.

Certain DOD personnel (including special Government employees) paid at a salary rate equal to or greater than the minimum rate for a grade GS-13 and who formerly were employed by a defense prime contractor at a salary rate of $15,000 or more per year are required by Section 410, Pub. L. 91-121, 50 U.S.C. 1436, to file reports of "Defense Related Employment" (DD Form 1787) for a period of 3 years subsequent to the termination of their employment by the contractor. Refer to Part 809d of this chapter for more details concerning this statutory requirement.

§ 920.19 Former officers or employees.

(a) *Definition.* The term "former officer or employee" includes those full-time civilian officers or employees and former military officers who have left Government service, special Government employees who have left Government service, retired Regular officers, and Reserve officers released from active duty. It does not include enlisted personnel.

(b) *Prohibited activities.* In general, former officers or employees are subject to the following major prohibitions:

(1) They may not, at any time after their Government employment has ended, represent anyone other than the US in connection with a matter in which the US is a party or has an interest and in which they took part in a personal and substantial way for the Government (see 18 U.S.C. 207(a)).

(2) They may not, for 1 year after their Government employment has ended, represent anyone other than the US in connection with a matter in which the US is a party or has an interest and which was within the bondaries of their official responsibilities during the last year of their Government service (see 18 U.S.C. 202(b) and 207(b)). This temporary restraint, of course, gives way to the permanent restriction described in (b)(1) of this section, if the matter is one in which they took personal and substantial parts.

(c) *Reports of Defense related employment.* Certain former military and

civilian officers and employees who work for defense prime contractors at a salary rate of $15,000 or more a year are required by Section 410, Pub. L. 91-121, 50 U.S.C. 1436, to file reports of "Defense Related Employment" (DD Form 1787) subsequent to their retirement, release from active duty, or after their Government employment has ended. Refer to Part 809d of this chapter for more details concerning this statutory requirement.

§ 920.20 Retired Regular officers.

(a) *Prohibitions.* In general, a retired Regular Air Force officer may not:

(1) As an officer whose "employment has ceased," take part in the prohibited activities in § 920.19 (see 18 U.S.C. 207).

(2) At any time, help in prosecuting a claim against the US if the officer worked on that claim while on active duty (see 18 U.S.C. 283).

(3) Within 2 years after retirement, help in prosecuting a claim that involves the Department in whose service the officer holds a retired status (see 18 U.S.C. 283).

(4) At any time, represent any person in the sale of anything to the Department in whose service the officer holds retired status (see 18 U.S.C. 281).

(5) Within 3 years after retirement, sell supplies or war materials to any agency of the DOD, the Cost Guard, the National Oceanic and Atmospheric Administration, or the Public Health Service (see 37 U.S.C. 801(c)), as amended, October 9, 1962, Pub. L. 87-777, (formerly 5 U.S.C 59(c)).

NOTE: With regard to the prohibitions in paragraphs (a)(2), (3), and (4) of this section and although not authorizing such activity, retired officers not on active duty are not subject to the criminal provisions thereof, solely by reason of their retired status. For the purpose of the civil statutes in paragraph (a)(5) of this section "selling" means:

(i) Signing a bid, proposal, or contract;

(ii) Negotiating a contract;

(iii) Contracting an officer or employee of any of the foregoing departments or agencies for the purpose of:

(*a*) obtaining or negotiating contracts,

(*b*) negotiating or discussing changes in specifications, price, cost allowances, or other terms of a contract, or

(*c*) settling disputes concerning performance of a contract, or

(iv) any other liaison activity with a view toward the ultimate consummation of a sale although the actual contract therefor is subsequently negotiated by another person. However, it is not the intent of this part to preclude a retired regular officer from accepting employment with private industry solely because the employer is a contractor with the government.

(b) *Required statement of employment.* (1) Each Regular retired Air Force officer is required to file, within 30 days after retirement, a "Statement of Employment," DD Form 1357, with AFAFC/RPT, Denver CO 80279. Whenever the information in this statement is no longer accurate, each such officer must file a new DD form 1357 within 30 days.

(2) The Air Force Accounting and Finance Center reviews the "Statement of Employment" to make sure it complies with applicable statutes and regulations. If it appears that a possible violation of a policy or statute as set forth in this part may be involved, the Retired member may be requested to furnish clarifying information. In those instances where the Commander, Air Force Accounting and Finance Center, is not able to resolve the issues, the matter, with recommendations, if appropriate, is sent to HQ USAF/JACM, Wash DC, for referral to the General Counsel of the Department of the Air Force, Office of the Secretary of the Air Force.

(3) The retired member may request additional copies of DD Form 1357 from AFAFC/RPT. DD Form 1357 is also stocked and available at base level.

§ 920.21 Officers of the Reserve components.

(a) A Reserve officer who is voluntarily serving a period of extended active duty in excess of 130 days is a full-time Government officer, and § 920.16 applies. EXEMPTION: Any Reserve who, before being ordered to active duty, was receiving compensation from any person may continue receiving compensation from that person while on duty (see 10 U.S.C. 1033).

(b) A Reserve officer who is serving on active duty involuntarily for any length of time, and a Reserve officer who is voluntarily serving on extended active duty for 130 days or less, is a "special Government employee," and § 920.17 applies.

(c) A Reserve officer (unless otherwise a full-time officer or employee of the United States) who is on active duty solely for training for any length of time is a "special Government employee," and § 920.17 applies.

(d) When released from active duty, a Reserve officer described in (a), (b), or (c) of this section, is a "former officer," and § 920.19 applies.

(e) Membership in a Reserve component of the armed forces or in the National Guard does not in itself, prevent a person from practicing a civilian profession or occupation before or in connection with any department (see 5 U.S.C. 502).

(f) An officer of a Reserve component, whether in the Ready, Standby, or Retired Reserve, who is not on active duty is not, solely because of Reserve status, considered to be an officer or employee of the United States for the purpose of the prohibitions summarized in § 920.16, § 920.17 and § 920.19. (see 5 U.S.C. 2105(d)).

(g) Receipt of retired pay by a Reserve or a former Reserve does not, in itself, make the person an officer or employee or a former officer or employee for the purpose of the prohibitions summarized in §§ 920.16, 920.17 and 920.19. Section 920.20 does not apply to a retired Reserve.

Subpart C—Special Government Employees; Advisers and Consultants; Temporary or Intermittent Employees

§ 920.22 General.

(a) For purposes of this subpart, "special Government employee" has the meaning given that term in § 920.17(a). § 920.29(a)(1) provides guidance on how to determine whether an individual is a full-time Government employee or a special Government employee, and § 920.29(b) provides guidance on how to determine whether the "60 day" rule (§ 920.17(b)(1)(ii)) applies. All special Government employees must familiarize themselves and comply with this subpart, Subpart A, and those parts of Subpart B and the attachments that apply to them.

(b) "Advisers or consultants" as used in this subpart are those:

(1) Defined in AFRs 40-304, Employment of Experts and Consultants and 160-97, Civilian National Consultants;

(2) Employed under individual personal service contracts of AFM 26-1, Manpower Policies and Procedures; and

(3) Members of Advisory Committees formed or used under AFR 11-36, Air Force Committee Management Program.

(c) Additional policy guidance for use by advisers and consultants and other individuals serving as special Government employees is in § 920.29(c) and guidance on the Air Force use of advisers and consultants is in § 920.29(e).

(d) It is necessary at times to distinguish between advisers and consultants who must be regarded as employees, and persons invited by the Air Force to speak for industry in a representative capacity. This distinction is discussed in § 920.29(d). If there is a doubt whether a person who furnishes information to the Air Force is to be regarded as an employee, or as acting in a representative capacity, the civilian personnel officer should be contacted.

(e) "Other temporary and intermittent employees" are primarily individuals who are appointed under a regular Civil Service appointment procedure.

§ 920.23 Temporary or intermittent employees.

The central civilian personnel officer:

(a) Briefs each individual employed on a temporary or intermittent appointment according to § 920.13.

(b) Makes determinations as set forth in § 920.29 on the basis of personnel records and advises the employee of these determinations.

(c) Records one of the appropriate remarks on the SF 50, as provided in § 920.28(e)(4)(iii).

Subpart D—Disposition of Forms

§ 920.24 Disposition of DD Form 1555.

Destroy DD Form 1555 according to AFM 12-50, Disposition of Air Force Documents.

Subpart E—Miscellaneous

§ 920.25 Receipt and disposition of honoraria and providing expert testimony before State agencies.

Section 920.30 gives circumstances and limitations under which Air Force members may receive and dispose of honoraria in connection with speeches, writings, public appearances, and other similar activities. Section 920.30 also gives procedures concerning expert testimony before state and local governmental bodies.

§ 920.26 Laws applicable to all Department of Defense personnel.

The following activities may subject present and former DOD personnel to penalties:

(a) Aiding, abetting, counseling, commanding, inducing, or procuring another to commit a crime under any criminal statute (see 18 U.S.C. 201).

(b) Concealing or failing to report to proper authorities the commission of a felony under any criminal statute if such personnel knew of the actual commission of the crime (see 18 U.S.C. 4).

(c) Conspiring with one or more persons to commit a crime under any criminal statute or to defraud the United States, if any party to the conspiracy does any act to effect the object of the conspiracy (see 18 U.S.C. 371).

(d) The prohibition against lobbying with appropriated funds (see 18 U.S.C. 1913).

(e) The prohibition against disloyalty and striking (see 5 U.S.C. 7311 and 18 U.S.C. 1918).

(f) The prohibition against the employment of a member of a Communist organization (see 50 U.S.C. 784).

(g) The prohibition against (1) the disclosure of classified information (see 18 U.S.C. 798 and 50 U.S.C. 783); and (2) the disclosure of confidential information (see 18 U.S.C. 1905).

(h) The provision relating to the habitual use of intoxicants to excess (see 5 U.S.C. 7352).

(i) The prohibition against the misuse of a Government vehicle (see 31 U.S.C. 638a(c)(2)).

(j) The prohibition against the misuse of the franking privilege (see 18 U.S.C. 1719).

(k) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (see 18 U.S.C. 1917).

(l) The prohibition against fraud or false statements in a Government matter (see 18 U.S.C. 1001).

(m) The prohibition against mutilating or destroying a public record (see 18 U.S.C. 2071).

(n) The prohibition against counterfeiting and forging transportation requests (see 18 U.S.C. 508).

(o) The prohibitions against (1) embezzlement of Government money or property (18 U.S.C. 641); (2) failing to account for public money (18 U.S.C. 643); and (3) embezzlement of the money or property of another person in the possession of an employee by reason of employment (18 U.S.C. 654).

(p) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(q) The prohibitions against political activities in Title 5, U.S.C. chapter 73, subparagraph III (see 5 U.S.C. 7321-7327) and 18 U.S.C. 602, 603, 607, and 608. These statutes apply to civilian employees; regulations govern military personnel (see AFR 110-2).

(r) The prohibitions against an employee (including a special Government employee) who is required to register under the Foreign Agents Registration Act of 1938 (see 18 U.S.C. 219) serving the Government. The criminal penalties of this subpart do not apply to a special Government employee in any case in which the department head sends a certificate to the Attorney General that employment by the United States Government is in the national interest. Requests for such certificates should be forwarded through channels to the Secretary of the Air Force (SAFMR). This subpart does not apply to retired regular officers who are not on active

duty, or to reserves who are not on active duty or who are on active duty for training.

§ 920.27 Gratuities additional guidance.

This section supplements § 920.6.

(a) *General prohibition.* Except as provided in (b) of this section Air Force personnel and their immediate families must not solicit, accept, or agree to accept any gratuity for themselves, members of their families, or others (either directly or indirectly from), or on behalf of, any source that:

(1) Is engaged in or seeks business or financial relations of any sort with any Department of Defense Component;

(2) Conducts operations or activities that are either regulated by a Department of Defense Component or significantly affected by Department of Defense decisions; or

(3) Has interests that may be substantially affected by the performance or nonperformance of the official duties of Department of Defense personnel.

(b) *Limited exceptions.* The general prohibition in (a) of this section does not apply to:

(1) The continued participation in employee welfare or benefit plans of a former employer when permitted by law and approved by the proper Standards of Conduct Counselor or Deputy Counselor.

(2) Accepting unsolicited advertising or promotional items that are less than $5 in retail value.

(3) When consistent with 18 U.S.C. 209, trophies, entertainment, prizes, or awards for public service or achievement or given in games or contests that are clearly open to the public generally or that are officially approved for Air Force personnel participation.

(4) Things available to the public (such as university scholarships covered by AFR 53-18, Fellowship, Scholarships and Grants) and free exhibitions by Defense Contractors at public trade fairs.

(5) Discounts or concessions extended Air Force-wide and realistically available to all Air Force personnel.

(6) Participation by Air Force personnel in civic and community activities when any relationship with Defense contractors is remote: for example, taking part in a Little League or Combined Federal Campaign luncheon that is subsidized by a Defense contractor.

(7) Social activities engaged in by Air Force officials and officers in command, or their representatives, with local civic leaders as part of the Air Force community relations programs in the United States and overseas according to AFM 190-9, Information Policies and Procedures, Chapter 4.

(8) DOD personnel taking part in widely attended gatherings of mutual interest to Government and industry, sponsored or hosted by industrial, technical, and professional associations (not by individual contractors) provided that they have been approved according to DOD Instruction 5410.20.

(9) Situations in which:

(i) Air Force personnel taking part in public ceremonial activities of mutual interest to industry, local communities, and the Air Force serves the interests of the Government; and

(ii) Accepting the invitation is approved by the Air Force major commander concerned. Air Force personnel assigned to HQ USAF or its separate operating locations must obtain such approval from their Deputy Chief of Staff, Staff Agency Head or the head of a comparable or higher office. Invitations for Air Force personnel assigned to the office of the Secretary of the Air Force must be approved by the Air Force General Counsel.

(10) Contractor-provided transportation, meals or overnight accommodations in connection with official business if arrangements for Government or commercial transportation, meals, or accommodations are clearly not practical. In any such case, the individual must report, in writing, the circumstances to the supervisor as soon as possible.

(11) Attendance at promotional vendor training sessions if the vendor's products or systems are provided under contract to DOD and the training is to facilitate the use of those

products or systems by DOD personnel.

(12) Attendance of Air Force personnel taking part in gatherings, including social events such as receptions, that are hosted by foreign governments or international organizations, provided that the acceptance of the invitation is approved by the General Counsel or designee. This approval is not required if attendance or participation is authorized by other exceptions, such as those in paragraph (b)(7) or (14) of this section or if the social event involves a routine or customary social exchange with officials of foreign governments in pursuance of official duties.

(13) Customary exchanges of gratuities between Air Force personnel, and their friends and relatives, as well as the friends and relatives of their spouse, minor children and members of their household. This applies only if the circumstances make it clear that it is that relationship, rather than the business of the persons concerned, that is the motivating factor for the gratuity and if it is clear that the gratuity is not paid for by any source described in paragraph (a) of this section.

(14) Situations in which in the sound judgment of the individual concerned or the individual's supervisor, the Government's interest will be served by Air Force personnel taking part in activities otherwise prohibited. In any such case, a written report of circumstances must be made in advance, or if an advance report is not possible, within 48 hours by the individual or the supervisor to the proper Standards of Conduct Counselor or Deputy Counselor.

(c) *Reimbursements.* (1) The acceptance of accommodations, subsistence, furnished in kind, in connection with official travel from other than Defense contractors is authorized only when the individual is to be a speaker, panelist, project officer, or other bona fide participant in the activity attended and when such attendance and acceptance is authorized by the order-issuing authority as being in the overall Government interest.

(2) Except as indicated in paragraph (c)(1) of this section, Air Force personnel may not accept personal reimbursement from any source for expenses related to official travel, unless authorized by their supervisor. Reimbursement must be consistent with guidance provided by the proper Standards of Conduct Counselor or Deputy Counselor and according to 5 U.S.C. 4111 or other statutory authority. Reimbursement must be made to the Government by check payable to the Treasurer of the United States. Personnel are reimbursed by the Government according to regulations that relate to reimbursement.

(3) Air Force personnel must not accept, either in kind or for cash reimbursement, benefits that are extravagent or excessive in nature.

(4) If non-US Government sources furnish Air Force personnel accommodations, subsistence, or services in kind according to paragraph (c) of this section, appropriate deductions must be reported and made in the travel, per diem, or other allowances payable.

(d) *Gratuity disposition.* After the effective date of this part Air Force personnel who receive gratuities, or have gratuities received for them, in circumstances that do not conform with this section must promptly report the circumstances to the proper Standards of Conduct Counselor or Deputy Counselor for determining disposition.

§ 920.28 Confidential statement of affiliations and financial interests (DD Form 1555) additional guidance.

This section supplements § 920.14.

(a) *Definitions.* (1) "Superior" means the US military officer in grade 0-5 or above, or the US civilian officer or employee in grade GS-14 or above, or such higher grades as the commander concerned may designate, who is the superior of the individual involved. In the Office of the Secretary of the Air Force and the Air Staff, the designation may be made by directors or heads of comparable or higher offices. In the absence of a designation to the contrary, directors or heads of comparable offices in the Office of the Secretary of the Air Force or the Air Staff are "superiors" for personnel under their jurisdiction.

(2) "Deputy Counselor" means the Standards of Conduct Counselor or Deputy Counselor designated in or according to § 920.13(d).

(b) *Review of positions.* Each superior who supervises military personnel in the grade of lieutenant colonel or above, or civilian personnel in the grade of GS–13 or above (or at a comparable pay level) must review the duties of each such position. A job description must be kept for each such position if the incumbent of the position must file a "Confidential Statement of Affiliations and Financial Interests" (DD Form 1555) as required by this part. The superior makes this determination. The job description must be reviewed at least once a year. The review may be done at the time performance, efficiency, or effectiveness ratings are given; or incident to other currently prescribed annual reviews. Incumbents of positions identified as involving any of the functions described in § 920.14(a) are required to comply with the filing requirements of this part. Individuals who believe that they have been improperly required to file may request a review of the decision through the Air Force grievance and complaint procedures.

(c) *Exceptions in individual cases.* Incumbents of positions described in § 920.14 may be excluded from the requirement of filing a DD Form 1555 (and Annual Statements) if the Under Secretary of the Air Force approves a determination from the individual's superior or higher authority, that the incumbent's responsibilities are at such a level that filing a DD Form 1555 is not necessary because of the incumbent's duties, the degree of supervision and review over the incumbent's official activities and the remote and inconsequential effect on the integrity of the Government. Request for approval of such determinations must be sent through command channels with the reasons for them. Any intermediate command may disapprove the request and return it to the requester.

(d) *Individual responsibility.* Each officer and employee affected by § 920.14(a) is personally responsible for filing a "Confidential Statement of Affiliations and Financial Interests", DD Form 1555 (and Annual Statements). Each superior concerned must make sure that required DD Forms 1555 are properly completed, sent on time and reviewed.

(e) *Special Government employees.* (1) Each special Government employee not exempted under paragraph (e)(2) of this section, must file a "Confidential Statement of Affiliations and Financial Interests", DD Form 1555 before appointment.

(2) The following are exempted categories of special Government employees who are not required to file Statements, unless specifically requested to do so:

(i) Physicians, dentists, and allied medical specialists engaged only in providing service to patients.

(ii) Veterinarians providing only veterinary services.

(iii) Lecturers taking part in educational activities.

(iv) Chaplains who perform only religious services.

(v) Individuals in the motion picture and television fields who are used only as narrators or actors in DOD productions.

(vi) A special Government employee who is not an "adviser" or "consultant" as explained in § 920.22(b).

(3) The Secretary of the Air Force may exempt an appointee from the requirement of filing a statement if it has been determined that such information is not relevant in light of the duties the appointee is to perform.

(4) The Central civilian personnel office of the employing activity:

(i) Determines, in consultation with the proper Standards of Conduct Counselor or Deputy Counselor, whether the adviser or consultant is a special or full-time employee according to the procedure in § 920.29(a). Any service to be rendered with other departments or agencies during the period must be taken into account in making this determination. This determination is based on the statement filed by the individual.

(ii) Before appointment or reappointment, arranges to secure a completed DD Form 1555, and sends it and the job description to the superior concerned for processing according to paragraph (h) of this section.

(iii) Records one of the following in the remarks section of the SF 50, "Notification of Personnel Action":

(A) "Subject to conflict of interest laws and regulations as a special Government employee."

(B) "Subject to conflict of interest laws and regulations as a regular Government employee."

(iv) Determines, in consultation with the proper Standards of Conduct Counselor or Deputy Counselor according to § 920.29(b), whether the 60-day rule applies and informs the individual.

(5) The Directorate of Civilian Personnel, HQ USAF, arranges for furnishing information requested by other agencies that concerns advisers and consultants employed with the Air Force. Requests from other agencies should be directed to HQ USAF/MPK, Wash., DC.

(f) *Submission of statements.* (1) Except as provided in paragraph (f)(2) of this section, each Air Force officer or employee who is required to file a statement or annual statement files it with his or her superior (see § 920.28(a)(1) for the meaning of "superior").

(2) All Air Force civilian Presidential appointees send their statements to the DOD General Counsel.

(3) All statements must be reviewed and approved by the proper Standards of Conduct Counselor or Deputy Counselor and the proper supervisor before an individual begins service or assumes duties and each year after that as prescribed by paragraph (f)(5) of this section, individuals designated for those positions requiring either approval of the Secretary of Defense or the Secretary of the Air Force must execute the statement before nomination so that it may be thoroughly reviewed prior to appointment.

(4) Agreements with other DOD Components and Government agencies that involve detailing Air Force personnel must contain a requirement that the other DOD Component or Government agency will (within 60 days) sent to HQ USAF/JAC Wash DC a copy of the detailed individual's statement, if required, and notice concerning the disposition of any conflict or apparent conflict of interests indicated.

(5) Annual DD Form 1555 statements must be filed by October 31 of each year for all affiliations and financial interests as of September 30 of that year. Even though no changes occur, a complete statement is required.

(6) If required by reason of duty assignment or infirmity a superior may grant an extension of time (excusable delay) with the concurrence of the Standards of Conduct Counselor or Deputy Counselor. Any extension for more than 30 days requires the concurrence of the General Counsel of the Air Force. Any late statement must include a notation of any extension of time granted.

(g) *How to complete DD Form 1555.* (1) Each individual must complete DD Form 1555 according to instructions on the form and the following guidance.

(2) Each DD Form 1555 and each annual statement must be completed in its entirety. "None" will be entered in each Part where applicable.

(3) The following interests need not be reported on DD Form 1555:

(i) Savings and checking accounts in banks;

(ii) Credit union shares;

(iii) Building and loan association shares;

(iv) Accumulated dividends and cash values of life insurance policies.

(4) Officers or employees are not required to report on a DD Form 1555 any information that relates to their connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civil, or political organization or a similar organization not conducted as a business enterprise. Educational or other institutions doing research and development or related work that involves grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in the DD Form 1555 of the officer or employee.

(5) The interest of a spouse, minor child, or other member of the individual's immediate household is consid-

90-112 O—82——40

ered to be an interest of the individual filing a DD Form 1555.

(6) If any information required to be included on a DD Form 1555 (including holdings placed in trust) is not known to the officer or employee who is filing the DD Form 1555, but is known to another person, the officer or employee must request that other person to send to the superior information in that officer's or employee's behalf.

(7) DOD consultants filing DD Form 1555 who are:

(i) Employed as private consultants to private business or other organizations, or

(ii) Who are affiliated with a partnership or corporation that provides consulting service to private firms or other business organizations should show the clients of such partnership or corporation to whom the Department of Defense consultant is rendering consulting service directly or by assisting other consultants.

(h) *Processing of DD Forms 1555.* (1) Each individual required to file DD Form 1555 must send the completed statement to the proper superior. The statement must be delivered personally to the superior concerned or sent in a sealed envelope addressed to the superior and clearly marked "DD Form 1555, To Be Opened By Addressee Only" to preserve its confidentiality. These envelopes are opened only by the superior, and the superior instructs staff members accordingly. When the superior sends the statements to the Deputy Counselor as provided in paragraph (h)(2) of this section, they are similarly delivered in person or sent in a sealed envelope addressed and marked as described in this subparagraph. These envelopes are opened only by the Deputy Counselor concerned, and the Deputy Counselor instructs staff members accordingly.

(2) When the superior receives a completed DD Form 1555, the superior must review it in light of the procedures of this part and of the individual's duties and responsibilities. The supervisor's evaluation is completed on the back of the form. Except as provided in paragraph (i)(1) of this section, the supervisor then sends the completed form with a copy of the job description directly to the proper Deputy Counselor.

(3) On receipt of the DD Form 1555, the Deputy Counselor reviews it in the light of this part, the individual's job description, and the superior's evaluation. If the Deputy Counselor finds no reason to question the superior's evaluation, the Deputy Counselor files the DD Form 1555 together with the superior's endorsement and the individual's job description. If the Deputy Counselor is not satisfied that there is no conflict of interest or appearance, the Deputy Counselor so informs the individual's superior, either orally or in writing, with a request for further consideration and takes action according to paragraph (i) of this section.

(i) Resolution of a conflict or appearance of conflict of interest.

(1) In any case where a real or apparent conflict of interest arises, the superior (in consultation with the Deputy Counselor) discusses the conflict or appearance of conflict of interest with the individual concerned. If the conflict or appearance of conflict of interest persists and is not resolved as a result of discussion, the superior (in consultation with the Deputy Counselor) prepares and gives the individual concerned written notice that there is a conflict or apparent conflict of interest, pointing out the reasons. The notice also informs the individual concerned that he or she is entitled to send to the superior a written endorsement explaining the conflict or appearance of conflict.

(2) When the individual's endorsement is received, the superior sends the entire file to the Deputy Counselor with an endorsement, if the superior concludes that the conflict or appearance of conflict is resolved. The entire correspondence is filed if the Deputy Counselor agrees with the superior's conclusion.

(3) If either the superior or the Deputy Counselor, after reviewing the explanation made by the employee in the endorsement, concludes that the conflict or appearance of conflict is not resolved, the commander reviews the entire matter and, if it is concluded that a conflict or appearance of

conflict does exist, the commander resolves it if possible.

(4) In any case arising at any echelon below HQ USAF level in which the commander concludes that there is a conflict or appearance of conflict of interest that is not resolved, the commander sends the entire file, with detailed information and recommendations, through command channels to HQ USAF/JAC, Wash DC, for resolution. Intermediate commanders will attempt to resolve each case without forwarding it to HQ USAF.

(5) The Judge Advocate General, USAF, sends to the General Counsel of the Air Force any case involving a conflict or appearance of a conflict that is not resolved by The Judge Advocate General or at a lower echelon. If the General Counsel is not able to resolve any case, it will be referred with recommendations to the Under Secretary of the Air Force for decision.

(6) Resolving of a conflict or apparent conflict of interest either on review at the local level or after referral to HQ US Air Force, must be effected at once so that the conflict or appearance of conflict is ended. A conflict or appearance of conflict may be resolved by one or more means, such as changes in assigned duties, divesting of the conflicting interest, disqualification for a particular assignment or disciplinary or administrative action. The resolution, whether by disciplinary action or otherwise, must be effected according to laws, Executive Orders, and regulations that apply.

(j) Additional DD Form 1555 requirements for certain general officers. Immediately after reviewing and approving a DD Form 1555 filed by a General Officer in the grade of Major General or above, the Air Force Standards of Conduct Counselor or Deputy Counselor concerned sends HQ USAF/MPG, Wash DC, 20330, a copy of the form and any allied correspondence. Major General Officers or above, who file their DD Forms 1555 with someone other than an Air Force Deputy Counselor (Air Force Staff Judge Advocate) must send HQ USAF/MPG a copy of each DD Form 1555 and any allied correspondence reviewed by such non Air Force Standards of Conduct Counselor or Deputy Counselor. The copies must be sent at once upon review and approval by the counselor concerned.

(k) Effect of filing a DD Form 1555 on other requirements. DD Form 1555 and Annual Statements required by this part are in addition to, and not a substitute for or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a DD Form 1555 or annual statement by an officer or employee does not permit that officer or employee or any other person to take part in a matter in which the officer, employee, or the other person's participation is prohibited by law, order, or regulation.

(l) Confidentiality of statements. The Air Force holds each "Statement of Affiliations and Financial Interests, and each Annual Statement", including related correspondence, in confidence. The Air Force must not disclose information from a statement except as the Secretary of the Air Force or the Civil Service Commission may determine for good cause. "Good cause" includes a determination that the record or any part of the record must be released under the Freedom of Information Act. Persons designated to obtain or review the statements are responsible for maintaining the statements in confidence and must not allow access to, or allow information to be disclosed from the statement except to carry out the purpose of this part.

§ 920.29 Special Government employees.

(a) Determining if an individual is a special or fulltime Government employee.

(1) At the time of the employee's original appointment and at the time of each appointment thereafter, the department or agency should make its best estimate of the number of days during the following 365 days on which it will require the services of the appointee. A part of a day should be counted as a full day for the purposes of this estimate, and a Saturday, Sunday, or holiday on which duty is to be performed should be counted equally with a regular workday.

(2) Unless otherwise provided by law, an appointment should not extend for more than 365 days. When an appointment extends beyond that period, an estimate, as required by paragraph (a)(1) of this section, should be made at the inception of the appointment and a new estimate at the expiration of each 365 days thereafter.

(3) Occasionally, an adviser, consultant or other temporary and intermittent employee is reappointed or reemployed after a break in service but within a 365-day period for which a previous estimate has been made. In those cases, the sum of the employee's prior service and the estimate of the new service which will be performed during the remaining part of the initial 365 days will be used in making the determination. If the reappointment or reemployment exceeds the 365-day period, a new estimate for the next 365-day period will be made under paragraph (a)(2) of this section.

(4) If a department or agency estimates, pursuant to paragraph (a)(1) or (2) of this section, that an appointee will serve more than 130 days during the ensuing 365 days, the appointee should not be carried on the rolls as a special Government employee and the department or agency should instruct the appointee that the appointee is regarded as subject to the prohibitions of 18 U.S.C. 203 and 205 to the same extent as if the appointee were to serve as a full-time employee. If the estimate is that the appointee will serve no more than 130 days during the following 365 days, the appointee should be carried on the rolls of the department or agency as a special Government employee and instructed that he or she is regarded as subject only to the restrictions of 18 U.S.C. 203 and 205. Even if it becomes apparent, prior to the end of a period of 365 days for which a department or agency has made an estimate on an appointee, that the appointee has not been accurately classified, the appointee should nevertheless continue to be considered a special Government employee or not, as the case may be for the remainder of that 365-day period.

(5) An employee who undertakes service with two departments or agencies shall inform each of his or her arrangements with the other. If both of the employee's appointments are made on the same date, the aggregate of the estimates made by the departments or agencies under paragraph (a)(1) or (2) of this section, shall be considered determinative of the employee's classification by each. Notwithstanding anything to the contrary in paragraph (a)(1), (2) or (4) of this section, if after being employed by one department or agency, a special Government employee is appointed by a second to serve it in the same capacity, each department or agency should make an estimate of the amount of the employee's service to it for the remaining portion of the 365-day period covered by the original estimate of the first. The sum of the two estimates and of the actual number of days of the employee's service to the first department or agency during the prior portion of such 365-day period shall be considered determinative of the classification of the appointee by each during the remaining portion. If an employee undertakes to serve more than two departments or agencies, they shall classify the employee in a manner similar to that prescribed in this paragraph (a)(5) for two agencies. Each agency which employs special Government employees who serve other agencies shall designate an officer to coordinate the classification of such employees with such other agencies.

(6) When a person is serving as a member of an advisory committee, board or other group, and is by virtue of his or her membership thereon an officer or employee of the United States, the requirements of paragraphs (a) (1), (2), (4), or (5) of this section should be carried out to the same extent as if that person were serving the sponsoring department or agency separately and individually.

(b) *Determining if the "60-day" rule applies.* (1) The 60-day standard affecting a special Government employee's private activities before the employee's department or agency is a standard of actual past service, as contrasted with the 130-day standard of estimated future service discussed in this paragraph (b)(1). A special Gov-

ernment employee is barred from representing another person before that department or agency at times when the employee has served it for an aggregate of more than 60 days during the past 365 days. Thus, although once having been in effect, the statutory bar may be lifted later by reason of an intervening period of nonservice. In other words, as a matter of law the bar may fluctuate in its effect during the course of a special Government employee's relationship with the department or agency.

(2) A part of a day should be counted as a full day in connection with the 60-day standard discussed in paragraph (b)(1) of this section, and a Saturday, Sunday, or holiday on which duty has been performed should be counted equally with a regular work day. Service performed by a special Government employee in one department or agency should not be counted by another in connection with the 60-day standard.

(c) Additional Guidance for advisers and consultants or other individuals who are special government employees concerning 18 U.S.C. 203 and 205.

(1) To a considerable extent the prohibitions of 18 U.S.C. 203 and 205 are aimed at the sale of influence to gain special favors for private businesses and other organizations and at the misuse of governmental position or information. In accordance with these aims, it is desirable that a consultant or adviser or other individual who is a special Government employee, even when not compelled to do so by 18 U.S.C. 203 and 205, should make every effort in that person's private work to avoid any personal contact in negotiations for contracts or grants with the department or agency which the employee is serving if the subject matter is related to the subject matter of the employee's consultancy or other service. It is recognized that this will not always be possible to achieve; for example, in a situation in which a consultant or adviser has an executive position and responsibility with that person's regular employer which requires the consultant or adviser to participate personally in contract negotiations with the department or agency he or she is advising. When this situation occurs, the consultant or adviser should participate in the negotiations for the regular employer only with the knowledge of a responsible Government official. In other instances an occasional consultant or adviser may have technical knowledge which is indispensable to the regular employer in the consultant's or adviser's efforts to formulate a research and development contract or a research grant and, for the same reason, it is in the interest of the Government that he or she should take part in negotiations for the private employer. Again, the consultant or adviser should participate only with the knowledge of a responsible Government official.

(2) Section 205 of title 18 contains an exemptive provision dealing with a similar situation which may arise after a Government grant or contract has been negotiated. This provision, in certain cases, permits both the Government and the private employer of a special Government employee to benefit from the employee's performance of work under a grant or contract for which the employee otherwise would be disqualified because the employee had participated in the matter for the Government or it is pending in an agency the employee has served for more than 60 days in the past year. More particularly, the provision gives the head of a department or agency the power, notwithstanding any prohibition in either 18 U.S.C. 203 and 205, to allow a special Government employee to represent before such department or agency either the employee's regular employer or another person or organization in the performance of work under a grant or contract. As a basis for this action, the department or agency head must first make a certification in writing, published in the FEDERAL REGISTER, that it is required by the national interest.

(d) *Determining if an individual is a Government employee or is serving in a representative capacity.* (1) It is necessary occasionally to distinquish between consultants and advisers who are special Government employees and persons who are invited to appear at a department or agency in a representative capacity to speak for firms or an industry, or for labor or agricul-

ture, or for any other recognizable group of persons, including, on occasion the public at large. A consultant or adviser whose advice is obtained by a department or agency from time to time because of his or her individual qualifications and who serves in an independent capacity is an officer or employee of the Government. On the other hand, one who is requested to appear before a Government department or agency to present the views of a nongovernmental organization or group which the person represents, or for which the person is in a position to speak, does not act as a servant of the Government and is not its officer or employee.

(2) The following principles are useful in arriving at a determination whether an individual is acting before an agency in a representative capacity.

(i) A person who receives compensation from the Government for that person's services as an adviser or consultant is its employee and not a representative of an outside group. The Government's payment of travel expenses and a per diem allowance, however, does not by itself make the recipient an employee.

(ii) It is rare that a consultant or adviser who serves alone is acting in a representative capacity. Those who have representative roles are for the most part persons serving as members of an advisory committee or similar body utilized by a Government agency. It does not follow, however, that the members of every such body are acting as representatives and are therefore outside the range of the conflict of interest laws. This result is limited to the members of committees utilized to obtain the views of nongovernmental groups or organizations.

(iii) The fact that an individual is appointed by an agency to an advisory committee upon the recommendation of an outside group or organization tends to support the conclusion that the individual has a representative function.

(iv) Although members of a governmental advisory body who are expected to bind outside organizations are no doubt serving in a representative capacity, the absence of authority to bind outside groups does not require the conclusion that the members are Government employees. What is important is whether they function as representatives of nongovernmental groups or organizations and not whether they can formally commit them.

(v) When an adviser or consultant is in a position to act as a representative of the United States or a Government agency—as, for example, in an international conference—the adviser or consultant is obviously acting as an officer or employee of the Government.

(e) *Additional guidance on Air Force use of advisers and consultants.* While it would be highly desirable, in order to minimize the occurrence of conflicts of interests, for departments and agencies of the Government to avoid appointing to advisory positions individuals who are employed or consulted by contractors or others having a substantial amount of business with that department or agency, it is recognized that the Government has, of necessity, become increasingly concerned with highly technical areas of specialization and that the number of individuals expert in those areas is frequently very small. Therefore, in many instances it will not be possible for a department or agency to obtain the services of a competent advisor or consultant who is not in fact employed or consulted by such contractors. In addition, an advisory group may of necessity be composed largely or wholly of persons of a common class or group whose employers may benefit from the advice given. An example would be a group of university scientists advising on research grants to universities. Only in such a group can the necessary expertise be found. In all these circumstances, particular care should be exercised to exclude the adviser's or consultant's employer's or clients' contracts or other transactions with the Government from the range of the consultant's or advisor's duties.

§ 920.30 Special instructions regarding receipt and disposition of honoraria; and providing expert testimony before state agencies.

(a) In addition to other related procedures contained in this part, this

section provides guidance for Air Force personnel in connection with receiving of honoraria and processing requests from state agencies for expert Department of Defense employee testimony.

(1) Section XD of DOD Directive 5500.7 states:

> D. DOD personnel are encouraged to engage in teaching, lecturing and writing. However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing, including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the Commission or Board of Examiners for the Foreign Service, which is dependent on information obtained as a result of one's government employment, except when that information has been published or is available to the general public or will be made available on request, or when the agency head gives written authorization for the use of nonpublic information on the basis that the use is in the public interest. In addition, an employee who is a civilian Presidential appointee shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance, the subject matter of which is devoted substantially to the responsibilities, programs or operations of his agency or which draws substantially on official data or ideas which have not become part of the body of public information.

(2) Air Force personnel must not accept an honorarium from any nongovernment source for taking part in activities that are connected with service as an officer or employee of the Government, or otherwise tendered in the officer's or employee's official Government capacity.

(3) Except as provided in paragraph (a)(1) of this section, Air Force personnel may accept honoraria tendered for a speech, lecture, writing, or other appearance, from a nongovernmental source other than a defense contractor, when such speech, lecture, writing, etc., is given in a purely private capacity, and done on off-duty time, or in a leave status, and when the subject matter does not involve an official government connection. Honoraria tendered under any other circumstances becomes the property of the United States and must be deposited to the Treasury. Under no circumstances, however, may Air Force personnel accept honoraria from a Department of Defense contractor.

(b) Requests from state agencies for expert testimony from Department of Defense personnel.

(1) This part provides general guidance on how to avoid conflicts of interest and the appearance of conflicts of interest. It cannot be sufficiently detailed to cover all possible factors or situations that may arise. Nevertheless, those officials with the authority to approve the appearance of Department of Defense personnel before state governmental bodies (including their local Government counterparts) must carefully evaluate requests for such appearances in order to avoid situations that may lead to unnecessary criticism of the Department of Defense. Among the factors that should be considered are the following:

(i) Unless there is a clear cut Executive Branch or agency position on the subject of the appearance, it is not appropriate for the expert witness from the Department of Defense to favor or oppose legislative proposals or proposed adminsitrative regulations being sponsored by a state agency.

(ii) Absent a significant agency or Executive Branch interest to be served by the testimony, the expert Department of Defense witness, should, if possible, present views that are personal, and not imply that the views are those of the agency.

(iii) Unless the primary purpose of the appearance of the Department of Defense expert is to further an agency or Executive Branch objective, the cost of such appearance should be borne by the state governmental body requesting the appearance.

(iv) The appearance of a Department of Defense expert before a private organization may be reimbursed by that organization under the standards of this part. Payment of fees by a private organization to a Department of Defense witness for an appearance before a state governmental body is not appropriate. Accordingly, Department of Defense personnel are not authorized to accept such payments.

(v) Any honorarium or fee tendered by a state governmental agency for the appearance of a Department of Defense expert witness may be accept-

ed only on behalf of the United States and endorsed to the Treasury of the United States as reimbursement for the expert's governmental pay while in temporary duty status as a witness.

(2) Air Force personnel assigned to the Office of the Secretary of the Air Force may not provide expert testimony before a state or local agency without prior coordination and approval of the office of the Air Force General Counsel. Requests for such testimony must be sent through channels to the office of the General Counsel for coordination and approval.

(3) All other Air Force personnel may provide expert testimony before a state or local agency only after prior coordination and approval of HQ USAF/JAC has been obtained. Requests for such testimony are sent through major command Staff Judge Advocate channels to HQ USAF/JAC Wash., DC for final action.

SUBCHAPTER M—ANIMALS

PART 930—USAF MILITARY WORKING DOG PROGRAM

Sec.
930.1 Purpose.
930.3 Concept of the program.
930.5 Use of military working dogs.
930.7 Restrictions in the use of military working dogs.
930.9 Posting of areas.
930.11 How the program works.

AUTHORITY: 10 U.S.C. 8012.

SOURCE: 40 FR 10984, Mar. 10, 1975, unless otherwise noted.

§ 930.1 Purpose.

(a) This part governs the use of military working dogs in support of USAF Security Police operations at Air Force installations. It explains how requirements for military working dogs are determined, how dogs are requisitioned, and defines requirements for the selection and training of military working dog handlers.

(b) Military working dogs are used by USAF Security Police to provide protection for USAF resources, to assist in the defense of USAF installations, and to aid in the enforcement of laws and regulations.

(c) Part 806 of this chapter states basic policies and instructions of release to the public of Air Force records, manuals, and regulations.

§ 930.3 Concept of the program.

Military working dogs (patrol, patrol/detector) are special items of equipment used to increase the effectiveness of USAF Security Policemen. The patrol dog is the basic type of dog used by the Security Police. The patrol dog is used under the control of a handler who requires specialized formal training. The patrol dog, through superior sensory capabilities, increases the effectiveness of a Security Policeman in providing protection for USAF resources and provides an effective psychological deterrent to potential offenders. Patrol dogs can be used effectively during daylight and darkness, in conjunction with Security Police vehicles or foot patrols. They may be used to scout, track, search, and observe from listening or observation posts. They are additionally trained to pursue, attack, hold, and release an offender upon the command of the handler.

§ 930.5 Use of military working dogs.

Patrol and patrol/detector dogs may be effectively used in all aspects of Security Police operations.

(a) *AFR 206-2, Local Ground Defense of U.S. Air Force Bases.* Patrol dogs are used to increase the detection and surveillance capability of the ground defense forces by patrolling, scouting, or tracking; to enhance the capability of sentries on observation or listening posts; and to act as a physical and psychological deterrent.

(b) *AFM 207-1, Doctrine and Requirements for Security of Air Force Weapons System.* Patrol dogs are used to increase the detection and surveillance capabilities, to provide a psychological deterrence and to increase the ability to control intruders.

(c) *AFR 30-2, Social Actions Program.* Patrol/detector dogs may be used to enforce customs laws and to support the USAF Drug Abuse Control Program.

(d) *AFR 125-37, Protection of USAF Resources (Part 851 of this chapter).* Patrol, patrol/detector dogs are used to protect resources and property by providing increased area surveillance, assisting in building security checks, protecting funds in transit, aiding the security policeman in normal patrol activity, and preventing theft and vandalism. In the investigative role, they may be used for stakeouts, tracking, article and building searches, narcotics and bomb detection.

(e) *AFR 355-11, Enforcement of Order at Air Force Installations, Control of Civil Distrubances, Support of Disaster Relief Operations, and Special Considerations for Oversea Areas (Part 809a of the chapter).* Patrol dogs may be used to protect vital resources and provide security for critical facilities. Patrol dogs may be used in on-base disturbances in accordance with AFM 125-12, Response to Disorders—Planning Tactics, Employment, and

AFM 125-5, Volume II, Utilization and Proficiency Evaluation. Additionally, patrol dog teams may be employed in the civilian community in a humanitarian or domestic emergency role, when authorized by the installation commander in coordination with his judge advocate.

(f) *AFR 35-26, Permissive Temporary Duty.* Patrol dog teams may participate in competitions conducted by civil or military police agencies or recognized police dog associations with the concurrence of their commander.

§ 930.7 Restrictions in the use of military working dogs.

(a) A military working dog team consists of one handler and his permanently assigned dog. HQ, USAF/IGSS (Installation Security Division, Director of Security Police, Office of the Inspector General) must approve any deviation from the single handler concept.

(b) Dogs must be worked on a leash unless released to search or attack. The handler must be able to maintain control of the dog when it is off leash.

(c) The use of a military working dog to effect apprehension is considered the minimum force necessary when the alternative is escape or the use of gunfire. Due to the probability of injury to the suspect, the handler will challenge in accordance with AFR 125-26, Arming Air Force Personnel and Use of Force by Personnel Engaged in Law Enforcement and Security Duties.

(d) Air Force units will use only those dogs procured in accordance with AFR 400-8, DOD Dog Program, or furnished thorough negotiation with foreign governments specifically authorized by AF/IGSM (Resources Management Division, Director of Security Police, Office of the Inspector General).

(e) Military working dogs will not be left unattended in kennels. At kennels supporting five or more dogs, a qualified dog handler will be assigned attendant duties to insure proper care and safety of military working dogs at all times. For those facilities supporting four or fewer dogs the requirements in paragraphs (e)(1) through (e)(3), will be met.

(1) Individual kennel runs will be locked. Keys will be maintained by the handler, NCOIC and law enforcement desk sergeant.

(2) A dog handler will be on call at all times. On duty dog handlers may be used for this purpose.

(3) The kennel facility and the individual dogs will be checked by security police patrols on a random schedule at least once each hour.

(f) Installation dog pounds will not be collected with or operated as part of the military dog facility. Military working dog handlers working in their primary AFSC will not be used to support the functions of the dog pound.

(g) Privately owned pets or unit mascots will not be permitted within the confines of the military working dog facility. An exception may be made when the military dog facility is used as a testing station in support of the DOD Dog Program Mobile Procurement Teams.

(h) Patrol/detector dogs trained in the detection of drugs will:

(1) Assist in the search for and the discovery of illicit drugs provided the decision to use working dogs for this purpose has been coordinated with the Staff Judge Advocate.

(2) Conduct searches during border clearance embarkations and debarkations. In CONUS, dogs may be used to further search military aircraft, freight, baggage, and personnel once the aircraft, including military contract aircraft, have been cleared by the U.S. Customs Bureau. At Special Foreign Clearance bases, where U.S. Customs inspections are performed by Security Police, dogs may also be used.

§ 930.9 Posting of areas.

(a) *Display.* Base warning signs posted at each gate and around the perimeter of the base will reflect the use of patrol dogs (Part 851 of this chapter). The signs will be mounted so as to be easily read by persons approaching on foot or in vehicles.

(b) *Wording.* In foreign countries, or within the CONUS when the ethnic origin of the local populace indicates it would be advisable, the wording will be English and in the local language.

§ 930.11 How the program works.

(a) *Procuring, training, and retraining dogs.* (1) DOD Dog Center procures all dogs required by the Air Force. Military standard requisitioning and issue procedures (MILSTRIP) requisitions for military working dogs are to be submitted by letter or message form only. They must arrive at the DOD Dog Center prior to the entry of the handler into the ATC or PACAF training program. Requisitions should be addressed to DOD Dog Center, Lackland Air Force Base, Texas 78236, Attention: Program Manager.

(2) Military working dogs will be initially trained by the formal training schools at ATC or PACAF in accordance with established ATC training programs and logistics support procedures.

(3) Local unit military working dog authorizations will be validated as a result of law enforcement, security, or base defense requirements. The local unit will ensure that dogs are not requisitioned unless necessary manpower actions are completed and kennel facilities are present or under construction.

(4) The using unit should program dogs for replacement as they reach nine years of age. Dogs reaching this age, however, may be continued on duty if the Chief, Security Police and the attending veterinarian determine that the dog is performing effectively and is in good health.

(5) If the death of a dog creates an urgent requirement for replacement that cannot be satisfied through a training program, a replacement may be requisitioned from DOD Dog Center, for CONUS and USAFE units or through the PACAF training school for PACAF units. Major commands must request this service direct. HQ, USAF approval is not required.

(6) The emergency establishment of new military working dog sections may occur during the fiscal year because of unforeseen mission changes. The major command must arrange for the procurement of dogs and the training quotas required. The major command will obtain HQ, USAF approval and the DOD Dog Center must be advised of approval to insure dogs are available for shipment upon graduation from training.

(7) Military working dogs which become excess to the needs of the using command will be reported as stated in AFR 400-8, Atch 1, paragraph 8, DOD Dog Program. A current veterinary examination must be submitted on DD Form 1829, Record of Military Dog Physical Examination.

(b) *Selecting, training and using dog handlers.* (1) Military working dog handlers are selected from authorized security police manpower resources of the using installation, or upon command request from pipeline graduates of the Basic Security Police Law Enforcement or Security Courses. The handler should be a volunteer and recommended by his superior. Handlers should be resourceful, patient, intelligent, and highly dependable.

(2) A formally trained military working dog handler should perform duty in that capacity for at least 24 months. Personnel with less than 24 months retainability should not be selected for training. Dog handlers are identified from other Security Policemen by the suffix "A" after their AFSC. Formal courses for military working dog personnel are contained in AFM 50-5, USAF Formal Schools Catalog. On the job training in the military working dog program is limited to training qualified patrol dog handlers to become patrol/narcotics detector dog handlers only.

(3) Kennel masters and instructor/trainers will be patrol dog qualified and graduates of the Patrol Dog Supervisors Course 3AZR81170A, or will be scheduled to attend the course upon assignment to such duties. The primary function of the kennel master is to insure that all assigned military dogs are proficient in the performance of their duties and that the health, safety, and well being of the dogs assigned are provided. The kennel master's duty hours will frequently correspond to those hours that the majority of his personnel are working.

(4) To maintain proficiency, each dog team will be rotated normally through all available posts. The kennel master or K-9 squad leader, as appropriate, will be the rating official for all assigned dog handlers. Howev-

er, it is the responsibility of the Security or Law Enforcement Flight Supervisor to insure effective utilization of the dog teams assigned to his flight for duty.

(c) *Veterinary medical support.* Detailed guidance concerning veterinary medical support is contained in AFR 163-11, Veterinary Service. The Air Force Surgeon General, through the Veterinary Service, provides professional support for the military working dog program. This includes medical treatment and care of military working dogs at the training locations and bases of assignment; professional review of plans for new construction and modification of kennels, support buildings, and sites; sanitary inspection of kennel areas; and the training and instruction of military working dog handlers and supervisors in the care, feeding, and first aid of military working dogs. Special studies in matters affecting the health and welfare of military working dogs are conducted by the Veterinary Service as required. The Director of the Base Medical Services will include veterinary requirements for medical material used in the treatment of military working dogs in the medical services budget. Civilian veterinary care for military working dogs is authorized in emergencies where a military veterinarian is not available or when the medical requirements for care are beyond the capabilities of the local military treatment facility.

(d) *Equipment and rations.* (1) TA-538, Security Police Activities, Organizational Small Arms Equipment, Military Dogs, Associated Equipment and Civil Disturbance Equipment, lists equipment allowed for the military working dog program. An initial issue of dog gear is made by the DOD Dog Center upon issue of dogs to the training activities. This dog gear will be shipped with the graduated dog to the unit of assignment. Upon receipt at the using installation, military working dogs are entered on the Unit Authorization List (UAL) of the appropriate unit. The using installation obtains equipment required for the operation of the dog facility through supply channels as expenses chargeable to funds available to the installation. Shipping crates and duck board will be returned to DOD Dog Center at the earliest practical date.

(2) The standard basic ration, for all USAF military working dogs is "Feed, High Caloric, for Military Working Dogs, Steel Pail, 25 pounds net, FSN 8710 144 6834." The feed is classified by General Services Administration (GSA) as a "Stock store item," Category 95, and is procured through supply channels using the MILSTRIP procedure. Delivery is made direct to the user by the processor.

(3) Special diets may be procured and fed to individual animals when directed by the veterinarian.

(e) *Kennel and support facilities.* (1) Definitive design AD-39-01-R4 as shown in AFM 88-2, Air Force Design Manual, Definitive Designs of Air Force Structures, is the standard Air Force design. This design and AFM 86-2, Standard Facility Requirements, will be used as guides when constructing military working dog facilities. New construction or modification of existing canine kennels and support buildings are not initiated without professional veterinary review as stated in AFR 163-11.

(2) Military dog facilities must be placed (so far as practicable), in areas where there will be the least distraction to the dogs and where dogs will not become a nuisance to personnel, but as close as possible to existing base water, electrical, and sewage outlets. Typical locations to be avoided are the vicinity of motor pools, petroleum, oil, lubricants (POL) areas, runways, engine test stands, run-up areas where the noise level exceed 75 decibels, near firing ranges, and officer, family, or troop housing areas. The kennel area must be posted with off-limits signs, reference paragraph 6-3c of AFM 125-5, Volume I.

(f) *Records and reports.* (1) When each military working dog is procured, DOD Dog Center prepares the permanent dog record file and initiates the DD Form 1834, Military Dog Service Record, which thereafter accompanies the dog. The DD Form 1834, to include any specialized training/proficiency records, will be kept current by the owning organization in accordance

with AFM 125-5, Volume I, USAF Military Working Dog Program.

(2) To ensure proper documentation to support a probable cause decision, the information contained in paragraphs (f)(2)(i) through (f)(2)(v) will be maintained on each patrol/detector team.

(i) A resume of the training and experience of the working dog team.

(ii) A detailed record of training and experience reflecting the number of checks/searches by date and location, and alerts with and without finds.

(iii) A record sheet with spaces for signatures and dates reflecting when reviewed by the base commander or other officials designated to authorize searches. The base commander or designated official will review each folder at least quarterly.

(iv) A document reflecting that the base commander witnessed a detection demonstration on a particular date. This document must reflect the results of the team's efforts during the demonstration. The demonstration should include a test of the dog's ability to alert on locations where a narcotic, drug, or explosive was recently removed from hiding. The demonstration record will then establish the team's credibility as a source of information in the eyes of the commander. The test of the dog's ability to alert on recently abandoned hiding places or clothes containing the smell of these substances will also add to the credibility as it partially explains prior nonproductive alerts the dog has experienced.

(v) A summary statement attesting to the reliability of the team. The summary must agree with other facts in the file, but should give a percentage of accuracy, if available, to assist the commander to rapidly determine the reliability of the team.

(3) The veterinary support unit at the DOD Dog Center initiates a permanent health record. The maintenance of this record is the responsibility of the base support veterinarian and will be maintained in accordance with AFR 163-11. Together, the DD Form 1834 and the health record constitute the permanent field record which follows the dog until death and is then forwarded to the Central Repository for Dog Records, located at the DOD Dog Center.

(g) *Disposition of Military Working Dogs.* (1) AFM 67-1, Volume VI, USAF Supply Manual, and AFR 400-8 (see paragraph (a)(6) of this section), provide relief from property accountability for military working dogs that die or are euthanized. Military working dogs are not to be euthanized due to being excess to current local or command requirements. Military working dogs may be euthanized:

(i) To terminate suffering from disease, injury, or permanent physical disability.

(ii) To prevent the spread of contagious disease.

(iii) When they are no longer able to perform duty because of age, incurable disease, or permanent physical disability.

(iv) When they are temperamentally unsuited to perform the function for which procured.

(2) Appropriate commanders must give written approval for euthanasia. Veterinary officers must issue a support statement if the reason for euthanasia is medical.

(3) In emergency cases to prevent suffering, veterinary officers may perform euthanasia at their discretion.

PART 931—ANIMALS IN DOD RESEARCH AND TRAINING

Sec.

931.1 Purpose.
931.2 References.
931.3 Implementing policy.
931.4 Specific responsibilities.
931.5 Release of information.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012; DOD Instruction 3216.1, August 31, 1976.

SOURCE: 43 FR 39101, Sept. 1, 1978, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation 169-2, August 12, 1977, including change 1, December 8, 1977.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 931.1 Purpose.

This part gives the responsibilities, policies, and procedures on care and use of animals in Air Force research, development, test, and evaluation (R.D.T. & E.), clinical investigation, instruction programs, and other purposes. It also applies to all other organizations or persons who get Air Force funds to conduct programs where animals are used. It implements DOD Instruction 3216.1, Policy on Animals in DOD R.D.T. & E., Clinical Investigation, and Instructional Programs, August 31, 1976.

§ 931.2 References.

(a) DODI 3216.1, Policy on Animals in DOD R.D.T. & E., Clinical Investigation, and Instructional Programs, August 31, 1976.
(b) AFR 169-6, Clinical Investigation and Human Test Subjects in the Medical Service, September 13, 1976.
(c) AFR 190-12, Release of Unclassified Information to the Public, March 13, 1973.
(d) AFR 190-17, Review and Clearance of Department of the Air Force Information, October 17, 1975.
(e) Armed Services Procurement Regulation, Clause 7-303.44.

§ 931.3 Implementing policy.

It is Air Force policy to comply with DODI 3216.1 and all applicable legislative directives. This includes procurement, transportation, care, and use of animals in R.D.T. & E. clinical investigation, and educational and instructional programs by or sponsored by the Air Force. It also includes public information aspects pertaining thereto.

§ 931.4 Specific responsibilities.

(a) The Surgeon General has overall Air Force staff supervision over the use of animals in Air Force activities in the scope of this part.
(b) Headquarters, Aerospace Medical Division (AFSC) compiles, consolidates, and reports for the Air Force all animal data in the scope of this part. These reports must meet DOD and legislative directive needs.
(c) Each laboratory director and local commander of organizations using animals in R.D.T. & E., clinical investigation, or instructional programs must:
(1) Set up a committee to go over all programs involving laboratory animals. It must make sure that DODI 3216.1 and the Animal Welfare Act standards issued by the Secretary of Agriculture are complied with. The committee must be made up of at least three members. It must include at least one research scientist not involved in the proposed program, and one senior veterinary officer.
(2) Give Aerospace Medical Division (AFSC)/RD, Brooks AFB, Tex. 78235, all information it needs on animals. This information is used to submit timely reports to meet Air Force, DOD, and other Federal agency requirements.

§ 931.5 Release of information.

The review, clearance, and release of information about R.D.T. & E., clinical investigations, and instructional programs that use animals must be in accordance with DODI 3216.1, AFR 190-12, and AFR 190-17.

PART 932—PREVENTION AND CONTROL OF COMMUNICABLE DISEASES OF ANIMALS

Sec.
932.1 Purpose.
932.2 Prevention and control measures.
932.3 Diagnostic tests and examinations.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: 36 FR 13990, July 29, 1971, unless otherwise noted.

§ 932.1 Purpose.

This part directs the manner of prevention and control of animal diseases among Government-owned animals and other animals under military control.

§ 932.2 Prevention and control measures.

(a) *General.* The commander, on recommendation of the surgeon, may order or authorize the physical examination of animals in his command or in an area under his jurisdiction. Animals in an area not under his jurisdiction can present hazards to military operations. In this instance, the com-

mander may authorize and direct the surgeon or, in his absence, the veterinarian to cooperate with various local and national health agencies to arrange examination of those animals. This investigation may be for a detailed study of enzootic or epizootic disease, or to examine its sudden increase and effect or potential effect upon the military population. Vaccination certificates or health certificates will be issued to meet the requirements of applicable laws and directives.

(b) *Rabies control.* (1) In accordance with local regulations, unvaccinated dogs, cats, and other privately owned animals will not be permitted to run at large on any military reservation but will be collected at frequent intervals and confined for a reasonable length of time prior to disposal.

(2) Military Police/Security Police personnel will collect all animals which are required to be confined. The confinement facility will be operated as prescribed by local regulations.

(3) When rabies occurs in an animal at a military station or base, the commander will initiate effective control measures recommended by the surgeon (Air Force Director of Base Medical Services) and/or the veterinarian.

(4) When any animal on a military reservation shows signs indicative of rabies or bites a person, the surgeon (Air Force Director of Base Medical Services) will notify the veterinarian and initiate action to have the animal confined or destroyed in accordance with local regulations. A domestic animal will be under the observation of a veterinarian until definite signs of rabies develop or the animal has been retained in isolation confinement for 10 days. A wild animal will be killed at once and its brain examined for evidence of rabies. If a suspect animal showing signs must be destroyed to prevent human exposure, the brain will not be damaged in the process of destroying the animal. As soon as possible after death, the animal carcass will be decapitated and the intact head forwarded to a laboratory for examination as prescribed in TB MED 237 and AFR 163-3 (Veterinary Laboratory Service), except that material suspected to contain rabies virus will not be submitted to laboratories located in rabies-free countries, unless the specimen originates within that country.

(5) Any animal not vaccinated against rabies who is bitten by another animal known or reasonably suspected to be rabid will be destroyed immediately or confined under observation of the veterinarian or the surgeon for a period of not less than 120 days, at the end of which period it may be released if no signs of rabies have developed and if rabies immunization is current. After confinement for a period of not less than 30 days followed by revaccination, animals possessing a current rabies immunization may be released.

§ 932.3 Diagnostic tests and examinations.

(a) Tuberculin will be administered in accordance with U.S. Department of Agriculture regulations to cattle that are Government-owned or to privately owned cattle permitted by lease agreement to graze on military reservations. Privately owned cattle will be tested at the owner's expense and will be free of tuberculosis with results of such tests forwarded to the installation.

(b) Brucellosis test: Government-owned or privately owned cattle permitted by lease agreement to graze on military installations will be tested for brucellosis in accordance with U.S. Department of Agriculture/State regulations. Privately owned cattle permitted by lease agreement to graze on military installations will be tested for brucellosis in accordance with U.S. Department of Agriculture/State regulations. Privately owned cattle will be tested at the owner's expense and will be free of brucellosis with results of such tests forwarded to the installation commander prior to entry on the military installation.

SUBCHAPTER N—TERRITORIAL AND INSULAR REGULATIONS

PART 935—WAKE ISLAND CODE

Subpart A—General

Sec.
935.1 Applicability.
935.3 Purpose.
935.5 Definitions.
935.7 Effective date.

Subpart B—Executive Authority

935.11 Designation and delegation of authority.
935.13 Permits.
935.15 Functions, powers, and duties.
935.16 Revocation or suspension of permits and registrations.
935.17 Autopsies.
935.18 Notaries public.
935.19 Emergency authority.

Subpart C—Civil Law

935.21 Applicable law.
935.23 Civil rights, powers, and duties.

Subpart D—Criminal Law

935.31 General.

Subpart E—Petty Offenses

935.41 Criminal offenses.

Subpart F—Penalties

935.51 Petty offenses.
935.53 Motor vehicle violations.
935.55 Violations of Subpart O or P of this part.
935.57 Contempt.

Subpart G—Judiciary

935.60 Wake Island Court.
935.61 Island Attorney.
935.62 Public Defender.
935.63 Clerk of the Court.
935.64 Jurisdiction.
935.65 Court of Appeals.
935.66 Clerk of the Court of Appeals.
935.67 Jurisdiction of the Court of Appeals.
935.68 Qualifications.

Subpart H—Statute of Limitations

935.70 Limitation of actions.

Subpart I—Subpoenas, Wake Island Court

Sec.
935.80 Subpoenas.

Subpart J—Rules of Civil Procedure

935.90 General.
935.91 Summons.
935.92 Service of complaint.
935.93 Delivery of summons to plaintiff.
935.94 Answer.
935.95 Proceedings; record; judgment.
935.96 Execution of judgment.
935.97 Garnishment.

Subpart K—Rules of Criminal Procedure

935.100 Bail.
935.101 Seizure of property.
935.102 Information.
935.103 Motions and pleas.
935.104 Sentence after a plea of guilty.
935.105 Trial.

Subpart L—Appeals and New Trials

935.110 Appeals.
935.111 New trial.

Subpart M—Peace Officers

935.120 Authority.
935.122 Arrests.
935.124 Warrants.
935.126 Release from custody.
935.128 Citation in place of arrest.

Subpart N—Motor Vehicle Code

935.130 Applicability.
935.131 Right-hand side of the road.
935.132 Speed limits.
935.133 Right-of-way.
935.134 Arm signals.
935.135 Turns.
935.136 General operating rules.
935.137 Operating requirements.
935.138 Motor bus operation.
935.139 Motor vehicle operator qualifications.
935.139a Motor vehicle maintenance and equipment.

Subpart O—Registration and Island Permits

935.140 Registration.
935.141 Island permit for boat, vehicle, or firearm.
935.142 Activities for which permit is required.

Sec.

Subpart P—Public Safety

935.150 Emergency requirements and restrictions.
935.151 Fire hazards.
935.152 Use of special areas.
935.153 Unexploded ordnance material.
935.154 Boat operations.
935.155 Floating objects.

AUTHORITY: Sec. 48, Act of 12 July 1960; 74 Stat. 424; Pub. L. 86-624; E.O. 11048, Sept. 1, 1962, 27 FR 8851 and agreement between the Department of Interior and Department of the Air Force dated 19 June 1972, 37 FR 12255.

SOURCE: 37 FR 12384, June 23, 1972, unless otherwise noted.

Subpart A—General

§ 935.1 Applicability.

(a) The local civil and criminal laws of Wake Island consist of this part and applicable provisions of the laws of the United States.

(b) For the purposes of this part, Wake Island includes Wake, Peale, and Wilkes Islands, and the appurtenant reefs, shoals, shores, bays, lagoons, keys, territorial waters, and superadjacent airspace of them.

§ 935.3 Purpose.

The purpose of this part is to provide—

(a) For the civil administration of Wake Island;

(b) Civil laws for Wake Island not otherwise provided for;

(c) Criminal laws for Wake Island not otherwise provided for;

(d) A judicial system for Wake Island not otherwise provided for.

§ 935.5 Definitions.

In this part—

(a) "General Counsel" means the General Counsel of the Air Force or his successor in office.

(b) "Commander" means the Commander, Wake Island Air Force Base or a successor in command at Wake Island.

(c) "He" includes the masculine or feminine gender.

(d) "Judge" includes judges of the Wake Island Court and Court of Appeals.

§ 935.7 Effective date.

This part is effective at 0000 June 25, 1972.

Subpart B—Executive Authority

§ 935.11 Designation and delegation of authority.

The executive authority at Wake Island is vested in the Secretary of the Air Force. This authority is hereby delegated to the General Counsel of the Air Force with authority to redelegate all or any part of his functions, powers, and duties under this part to such officers and employees of the Air Force as he may designate. The Commander, Wake Island Air Force Base is the agent of the Secretary, his delegate and designees in carrying out any function, power or duty under this part.

§ 935.13 Permits.

Permits in effect on the effective date of this part continue in effect until revoked or rescinded by the Commander. The Commander may issue island permits or registration for:

(a) Businesses, including any trade, profession, calling, or occupation, and any establishment where food or beverages are prepared, offered, or sold for human consumption.

(b) Self-propelled motor vehicles, except aircraft; including attached trailers.

(c) Vehicle operators.

(d) Boats.

(e) Dogs.

(f) Food handlers.

(g) Explosives and guns and pistols (including those operated by air, gas, or spring).

(h) Drugs, narcotics, and poisons.

(i) Construction.

(j) Burials.

(k) Any permit or registration issued pursuant to Air Force regulations or directives as applicable to Wake Island Air Force Base shall constitute a permit or registration under this section, and no other permit or registration shall be required.

§ 935.15 Functions, powers, and duties.

The Commander may:

89 112 O—82——41

(a) Appoint Peace Officers;
(b) Direct the abatement of any public nuisance upon failure of any person to comply with a notice of removal;
(c) Direct sanitation and fire prevention inspections;
(d) Establish records of vital statistics;
(e) Direct the registration and inspections of motor vehicles, boats, and aircraft;
(f) Deputize any person to serve as a Peace Officer;
(g) Impose quarantines;
(h) Direct the impoundment and destruction of unsanitary food, fish, or beverages;
(i) Direct the evacuation of any person from a hazardous area;
(j) Commission notaries public;
(k) Establish and maintain a facility for the restraint or confinement of persons and provide for their care;
(l) Direct the removal of any person from Wake Island for cause;
(m) Issue traffic regulations that are not inconsistent with this part, and post traffic signs;
(n) Prohibit the posting, distribution, or public display of advertisements, signs, circulars, petitions, or similar materials, soliciting, picketing, or parading in any public place or area if he determines it would interfere with public business or endanger the health and safety of persons and property on Wake Island;
(o) Perform or direct any other acts, not inconsistent with this part or applicable laws and regulations if he considers it necessary for protection of the health or safety of persons and property on Wake Island; and
(p) Issue any order or notice necessary to implement this section. Any order or notice issued pursuant to Air Force regulations and directives as applicable to Wake Island Air Force Base shall constitute an order or notice issued pursuant to this section.

§ 935.16 Revocation or suspension of permits and registrations.

(a) The Commander may revoke or suspend any island permit or registration for cause, with or without notice.
(b) The holder of any revoked or suspended permit or registration may demand personal hearing before the Commander within 30 days after the effective date of the revocation or suspension.
(c) If a hearing is demanded, it shall be granted by the Commander within 30 days of the date of demand. The applicant may appear in person and present such documentary evidence as is pertinent. The Commander shall render a decision, in writing, setting forth his reasons, within 30 days thereafter.
(d) If a hearing is not granted within 30 days, a written decision is not rendered within 30 days after a hearing, or the applicant desires to appeal a decision, he may, within 30 days after the latest of any of the foregoing dates appeal in writing to the General Counsel, whose decision shall be final.

§ 935.17 Autopsies.

The medical officer on Wake Island, or any other qualified person under his supervision may perform autopsies upon authorization of the Commander or a judge of the Wake Island Court.

§ 935.18 Notaries public.

(a) The Commander may commission one or more residents of Wake Island as notaries public.
(b) Persons applying for commission as a notary public shall file an application, together with evidence of good character and a proposed seal in such form as the Commander requires, with a fee of $10 which shall be deposited in the Treasury as a miscellaneous receipt.
(c) Upon such investigation as he considers necessary, the Commander may commission an applicant as a notary public. Commissions shall expire 3 years after the date thereof, and may be renewed upon application upon payment of a fee of $3.

§ 935.19 Emergency authority.

During the imminence and duration of any emergency declared by him, the Commander may perform or direct any acts necessary to protect life and property.

Subpart C—Civil Law

§ 935.21 Applicable law.

Civil acts and deeds taking place on Wake Island shall be determined and adjudicated as provided in this part; and otherwise, as provided in the Act of June 15, 1950 (64 Stat. 217) (48 U.S.C. 644a), according to the laws of the United States relating to such an act or deed taking place, on the high seas, on board a merchant vessel or other vessel belonging to the United States.

§ 935.23 Civil rights, powers, and duties.

In any case in which the civil rights, powers, and duties of any person on Wake Island are not otherwise prescribed by the laws of the United States or this part, the civil rights, powers, and duties as they obtain under the laws of Hawaii apply to persons on Wake Island.

Subpart D—Criminal Law

§ 935.31 General.

In addition to any act made criminal in this part, any act committed on Wake Island that would be criminal if committed on board a merchant vessel or other vessel belonging to the United States is a criminal offense and shall be adjudged and punished according to the laws applicable on board those vessels on the high seas.

Subpart E—Petty Offenses.

§ 935.41 Criminal offenses.

No person may on Wake Island—

(a) Sell or give an alcoholic beverage manufactured for consumption (including beer, ale, or wine) to any person who is not at least 18 years of age, without the permission of that person's parent or guardian;

(b) Procure for, engage in, aid or abet in, or solicit for prostitution;

(c) Use any building, structure, vehicle, or public lands for the purpose of lewdness, assignation, or prostitution;

(d) Possess or display (publicly or privately) any pornographic literature, film, device, or any matter containing obscene language, that tends to corrupt morals;

(e) Make any obscene or indecent exposure of his person;

(f) Commit any disorderly, obscene, or indecent act;

(g) Commit any act of voyeurism (Peeping Tom);

(h) Enter upon any assigned residential quarters or areas immediately adjacent thereto, without permission of the assigned occupant;

(i) Discard or place any paper, debris, refuse, garbage, litter, bottle, can, human or animal waste, trash or junk in any public place, except into a receptacle or place designated or used for that purpose.

(j) Commit any act of nuisance;

(k) With intent to provoke a breach of the peace or under such circumstances that a breach of the peace may be occasioned thereby, act in such a manner as to annoy, disturb, interfere with, obstruct, or be offensive to any other person;

(l) Be drunk in any public place;

(m) Use any profane or vulgar language in a public place;

(n) Loiter or roam about Wake Island, without any lawful purpose, at late and unusual hours of the night;

(o) Lodge or sleep in any place without the consent of the person in legal possession of that place;

(p) Grossly waste any potable water; or

(q) Being a male, knowingly enter any area building or quarters reserved for women, except in accordance with established visiting procedures.

(r) Smoke or ignite any fire in any designated and posted "No Smoking" area, or in the immediate proximity of any aircraft or fueling pit;

(s) Enter any airplane parking area or ramp, unless he is on duty therein, is a passenger under appropriate supervision, or is authorized by the Commander to enter that place;

(t) Interfere or tamper with any aircraft or servicing equipment or facility, or put in motion the engine of any aircraft without the permission of its operator;

(u) Post, distribute, or publicly display advertisements, signs, circulars, petitions, or similar materials, solicit, picket, or parade in any public place or

area where prohibited by the Commander pursuant to § 935.15.

[37 FR 12384, June 23, 1972; 37 FR 13175, July 4, 1972]

Subpart F—Penalties

§ 935.51 Petty offenses.

Whoever is found guilty of a violation of any provision of Subpart E of this part is subject to a fine of not more than $500 or imprisonment of not more than 6 months, or both.

§ 935.53 Motor vehicle violations.

Whoever is found guilty of a violation of Subpart N of this part is subject to a fine of not more than $100, imprisonment of not more than 30 days, or suspension or revocation of his motor vehicle operator's permit, or any combination or all of these punishments.

[37 FR 12384, June 23, 1972, as amended at 37 FR 14567, July 21, 1972]

§ 935.55 Violations of Subpart O or P of this part.

(a) Whoever is found guilty of a violation of Subpart O or P of this part is subject to a fine of not more than $100, or imprisonment of not more than 30 days, or both.

(b) The penalties prescribed in paragraph (a) of this section are in addition to and do not take the place of any criminal penalty otherwise applicable and currently provided by the laws of the United States.

§ 935.57 Contempt.

Judges of the Wake Island Court may, in any civil or criminal case or proceeding, punish any person for disobedience of any order of the court, or for any contempt committed in the presence of the court, by a fine of not more than $100, or imprisonment of not more than 30 days, or both.

Subpart G—Judiciary

§ 935.60 Wake Island Court.

(a) The judicial authority at Wake Island is vested in the Wake Island Court.

(b) The Wake Island Court consists of a Chief Judge and four Associate Judges, appointed by the General Counsel, for a term of 1 year. The Chief Judge assigns matters to judges, determines whenever the Court sits individually or en banc, and prescribes rules of the Court not otherwise provided for in this Code.

(c) Sessions of the Court are held on Wake Island at times and places designated by the Chief Judge.

§ 935.61 Island Attorney.

There is an Island Attorney, appointed by the General Counsel for a term of 1 year. The Island Attorney represents the United States in the Wake Island Court and in the Wake Island Court of Appeals.

§ 935.62 Public Defender.

There is a Public Defender, appointed by the General Counsel for a term of 1 year. The Public Defender represents any person charged with an offense under this Code who requests representation.

§ 935.63 Clerk of the Court.

There is a Clerk of the Court, who is appointed by the Chief Judge. The Clerk maintains a public docket containing such information as the Chief Judge may prescribe, and performs such other duties as the Court may direct.

§ 935.64 Jurisdiction.

(a) The Wake Island Court has jurisdiction over all offenses under this Code and all actions of a civil nature, cognizable at law or in equity, where the amount in issue is not more than $1,000, exclusive of interests and costs, change of name or domestic relations matters;

(b) The United States is not subject to suit in the Court;

(c) The United States may intervene in any matter in which the Island Attorney determines it has an interest.

§ 935.65 Court of Appeals.

(a) The appellate judicial authority for Wake Island is vested in the Wake Island Court of Appeals.

(b) The Wake Island Court of Appeals consists of a Chief Judge and one Associate Judge, appointed by the General Counsel for a term of 1 year. The Chief Judge assigns matters to judges, determines whether the Court sits individually or en banc, and prescribes rules of the Court not otherwise provided for in this Code.

(c) Sessions of the Court of Appeals are held in Washington, D.C., at times and places designated by the Chief Judge.

§ 935.66 Clerk of the Court of Appeals.

There is a Clerk of the Court of Appeals, who is appointed by the Chief Judge. The Clerk maintains a public docket containing such information as the Chief Judge may prescribe, and performs such other duties as the Court directs.

§ 935.67 Jurisdiction of the Court of Appeals.

The Court of Appeals has jurisdiction over all appeals from the Wake Island Court. Decisions of the Court are final.

§ 935.68 Qualifications.

(a) No person may be appointed a judge, Island Attorney or Public Defender under this part who is not a member of the bar of a State, District, or Territory.

(b) Civilian officers and employees of the Department of the Air Force may be appointed as a judge, Island Attorney, Public Defender, or Clerk, to serve without additional compensation.

Subpart H—Statute of Limitations

§ 935.70 Limitation of actions.

(a) No civil action may be filed more than 1 year after the cause of action arose.

(b) No person is liable to be tried under this Code for any offense if the offense was committed more than 1 year before the date the information or citation is filed with the Clerk of the Wake Island Court.

Subpart I—Subpoenas, Wake Island Court

§ 935.80 Subpoenas.

(a) The Clerk of the Court shall issue subpoenas for the attendance of witnesses. The subpoena must include the name of the Court and the title, if any, of the proceeding; and shall command each person to whom it is directed to attend and give testimony at the time and place specified therein. The Clerk shall issue a subpoena to a party requesting it, setting forth the name of the witness subpoenaed.

(b) The Clerk may also issue a subpoena commanding the person to whom it is directed to produce the books, papers, documents, or other objects designated therein. The Court may direct that books, papers, and documents designated in the subpoena be produced before the Court at a time before the trial or before the time when they are to be offered in evidence. It may, upon their production, allow the books, papers, documents, or objects or portions thereof to be inspected by the parties and their representatives.

(c) Any Peace Officer or any other person who is not a party and who is at least 18 years of age may serve a subpoena. Service of a subpoena shall be made by delivering a copy thereof to the person named.

(d) The Clerk of the Court shall assess and collect a witness fee of $3 for each subpoena requested by any party other than the United States, which shall be tendered to the witness as his witness fee together with service of the subpoena. Witnesses subpoenaed by the Island Attorney shall be entitled to a fee of $3 upon presentment of a proper claim therefor on the United States. No duly summoned witness may refuse, decline, or fail to appear or disobey a subpoena on the ground that the witness fee was not tendered or received.

(e) Upon a showing that the evidence is necessary to meet the ends of justice and that the defendant is indigent, the Public Defender may request the Court to direct the Island Attorney to obtain the issuance of a subpoena on behalf of a defendant in a crimi-

nal case. Witnesses so called on behalf of the defendant shall be entitled to the same witness fees as witnesses requested by the Island Attorney.

(f) Subpoenas may be credited only to persons or things on Wake Island.

[37 FR 12384, June 23, 1972; 37 FR 13175, July 4, 1972]

Subpart J—Rules of Civil Procedure

§ 935.90 General.

(a) The Federal Rules of Civil Procedure apply to civil actions in the Court to the extent the Presiding Judge considers applicable under the circumstances.

(b) There is one form of action called the "Civil Action."

(c) Except as otherwise provided in this part, there is not trial by jury.

(d) A civil action begins with the filing of a complaint with the Court. The form of the complaint is as follows except as it may be modified to conform as appropriate to the particular action:

In the Wake Island Court

Civil Action No. ———

———————
(Plaintiff)
vs. Complaints
———————
(Defendant)

——————— plaintiff alleges that the defendant is indebted to plaintiff in the sum of $———; that plaintiff has demanded payment of said sum; that defendant has refused to pay; that defendant resides at ——— on Wake Island; that plaintiff resides at ———.

(Plaintiff) ———————————

§ 935.91 Summons.

Upon the filing of a complaint, a Judge or Clerk of the Court shall issue a summons in the following form and deliver it for service to a peace officer or other person specifically designated by the Court to serve it:

In the Wake Island Court

Civil Action No. ———

———————
(Plaintiff)
vs. Summons
———————
(Defendant)

To the above-named defendant:

You are hereby directed to appear and answer the attached cause at ——— on ——— day of ———, 19—, at —— p.m. and to have with you all books, papers, and witnesses needed by you to establish any defense you have to said claim.

You are further notified that in case you do not appear, judgment will be given against you, for the amount of said claim, together with cost of this suit and the service of this order.

Dated: ———, 19—.

(Clerk, Wake Island Court) ———————

§ 935.92 Service of complaint.

(a) A peace officer or other person designated by the Court to make service shall serve the summons and a copy of the complaint at Wake Island upon the defendant personally, or by leaving them at his usual place of abode with any adult residing or employed there.

(b) In the case of a corporation, partnership, joint stock company, trading association, or other unincorporated association, service may be made at Wake Island by delivering a copy of the summons and complaint to any of its officers, a managing or general agent, or any other agent authorized by appointment or by law to receive service.

§ 935.93 Delivery of summons to plaintiff.

The Clerk of the Court shall promptly provide a copy of the summons to the plaintiff, together with notice that if the plaintiff fails to appear at the Court at the time set for the trial, the case will be dismissed. The trial shall be set at a date that will allow each party at least 7 days, after the pleadings are closed, to prepare.

§ 935.94 Answer.

(a) The defendant may, at his election, file an answer to the complaint.

(b) The defendant may file a counterclaim, setoff, or any reasonable affirmative defense.

(c) If the defendant elects to file a counterclaim, setoff, or affirmative defense, the Court shall promptly send a copy of it to the plaintiff and shall

allow him enough time to prepare his position with regard thereto.

§ 935.95 Proceedings; record; judgment.

(a) The presiding Judge is responsible for the making of an appropriate record of each civil action.

(b) All persons shall give their testimony under oath or affirmation. The Senior Judge shall prescribe the oath and affirmation that may be administered by any Judge or the Clerk of the Court.

(c) Each party may present witnesses and other forms of evidence. In addition, the presiding Judge may informally investigate any controversy, in or out of the Court, if the evidence obtained as a result is adequately disclosed to all parties. Witnesses, books, papers, documents, or other objects may be subpoenaed as provided in § 935.80 for criminal cases.

(d) The Court may issue its judgment in writing or orally from the bench. However, if an appeal is taken from the judgment, the presiding Judge shall, within 10 days after it is filed, file a memorandum of decision as a part of the record. The Judge shall place in the memorandum findings of fact, conclusions of law, and any comments that he considers will be helpful to a thorough understanding and just determination of the case on appeal.

§ 935.96 Execution of judgment.

(a) If, after 60 days after the date of entry of judgment (or such other period as the court may prescribe), the judgment debtor has not satisfied the judgment, the judgment creditor may apply to the court for grant of execution on the property of the judgment debtor.

(b) Upon a writ issued by the court, any peace officer may levy execution on any property of the judgment debtor except—

(1) His wearing apparel up to $300 in value;

(2) His beds, bedding, household furniture, and furnishings, stoves, and cooking utensils, up to $300 in value; and

(3) Mechanics tools and implements of the debtor's trade up to $200 in value.

(c) Within 60 days after levy of execution, a peace officer shall sell the seized property at public sale and shall pay the proceeds to the Clerk of the court. The Clerk shall apply the proceeds as follows:

(1) First, to the reasonable costs of execution and sale and court costs.

(2) Second, to the judgment.

(3) Third, the residue (if any) to the debtor.

(d) In any case in which property has been seized under a writ of execution, but not yet sold, the property seized shall be released upon payment of the judgment, court costs, and the costs of execution.

§ 935.97 Garnishment.

(a) If a judgment debtor fails to satisfy a judgment in full within 60 days after the entry of judgment (or such other period as the court may prescribe), the court may, upon the application of the judgment creditor issue a writ of garnishment directed to any person having money or property in his possession belonging to the judgment debtor or owing money to the judgment debtor. The following are exempt from judgment:

(1) Ninety percent of so much of the gross wages as does not exceed $200 due to the judgment debtor from his employer.

(2) Eighty percent of so much of the gross wages as exceeds $200 but does not exceed $500 due to the judgment debtor from his employer;

(3) Fifty percent of so much of the gross wages as exceeds $500 due to the judgment debtor from his employer.

(b) The writ of garnishment shall be served on the judgment debtor and the garnishee and shall direct the garnishee to pay or deliver from the money or property owing to the judgment debtor such money or property as the court may prescribe.

(c) The garnished amount shall be paid to the Clerk of the Court, who shall apply it as follows:

(1) First, to satisfy the costs of garnishment and court costs.

(2) Second, to satisfy the judgment.

(3) Third, the residue (if any) to the judgment debtor.

(d) Funds of the debtor held by the United States are not subject to garnishment.

Subpart K—Rules of Criminal Procedure

§ 935.100 Bail.

(a) A person who is arrested on Wake Island for any violation of this part is entitled to be released on bail in an amount set by a Judge or Clerk of the Court, which may not exceed the maximum fine for the offense charged. If the defendant fails to appear for arraignment, trial or sentence, or otherwise breaches any condition of bail, the Court may direct a forfeiture of the whole or part of the bail and may on motion after notice to the surety or sureties, if any, enter a judgment for the amount of the forfeiture.

(b) The Chief Judge may prescribe a schedule of bail for any offense under this Code which the defendant may elect to post and forfeit without trial, in which case the Court shall enter a verdict of guilty and direct forfeiture of the bail.

(c) Bail will be deposited in cash with the Clerk of the Court.

[37 FR 12384, June 23, 1972; 37 FR 13175, July 4, 1972]

§ 935.101 Seizure of property.

Any property seized in connection with an alleged offense (unless the property is perishable) is retained pending trial in accordance with the orders of the Court. The property must be produced in Court, if practicable. At the termination of the trial, the Court shall restore the property or the funds resulting from the sale of the property to the owner, or make such other proper order as may be required and incorporate its order in the record of the case.

§ 935.102 Information.

(a) Any offense may be prosecuted by a written information signed by the Island Attorney. However, if the offense is one for which issue of a citation is authorized by this part and a citation for the offense has been issued, the citation serves as an information.

(b) A copy of the information shall be delivered to the accused, or his counsel, as soon as practicable after it is filed.

(c) Each count of an information may charge one offense only and must be particularized sufficiently to identify the place, the time, and the subject matter of the alleged offense. It shall refer to the provision of law under which the offense is charged, but any error in this reference or its omission may be corrected by leave of Court at any time before sentence and is not grounds for reversal of a conviction if the error or omission did not mislead the accused to his prejudice.

§ 935.103 Motions and pleas.

(a) Upon motion of the accused at any time after filing of the information or copy of citation, the Court may order the prosecutor to allow the accused to inspect and copy or photograph designated books, papers, documents, or tangible objects obtained from or belonging to the accused, or obtain from others by seizure or process, upon a showing that the items sought may be material to the preparation of his defense and that the request is reasonable.

(b) When the Court is satisfied that it has jurisdiction to try the accused as charged, it shall require the accused to identify himself and state whether or not he has counsel. If he has no counsel, but desires counsel, the Court shall give him a reasonable opportunity to procure counsel.

(c) When both sides are ready for arraignment, or when the Court determines that both sides have had adequate opportunities to prepare for arraignment, the Court shall read the charges to the accused, explain them (if necessary), and, after the reading or stating of each charge in Court, ask the accused whether he pleads "guilty" or "not guilty." The Court shall enter in the record of the case the plea made to each charge.

(d) The accused may plead "guilty" to any or all of the charges against him, except that the Court may at its discretion refuse to accept a plea of guilty, and may not accept a plea without first determining that the plea is

made voluntarily with understanding of the nature of the charge.

(e) The accused may plead "not guilty" to any or all of the charges against him. The Court shall enter a plea of not guilty if the answer of the accused to any charge is such that it does not clearly amount to a plea of guilty or not guilty.

(f) The accused may, at any stage of the trial, with the consent of the Court, change a plea of not guilty to one of guilty. The Court shall then proceed as if the accused had originally pleaded guilty.

§ 935.104 Sentence after a plea of guilty.

If the Court accepts a plea of guilty to any charge or charges, it shall make a finding of guilty on that charge. Before imposing sentence, the Court shall hear such statements for the prosecution and defense, if any, as it requires to enable it to determine the sentence to be imposed. The accused or his counsel may make any reasonable statement he wishes in mitigation or of previous good character. The prosecution may introduce evidence in aggravation, or of bad character if the accused has introduced evidence of good character. The Court shall then impose any lawful sentence that it considers proper.

§ 935.105 Trial.

(a) If the accused pleads not guilty, he is entitled to a trial on the charges in accordance with procedures prescribed in the Rules of Criminal Procedure for the U.S. District Courts, except as otherwise provided in this part, to the extent the Presiding Justice considers practicable and necessary to the ends of justice. There is no trial by jury.

(b) All persons shall give their testimony under oath or affirmation. The Senior Judge shall prescribe the oath and affirmation that may be administered by any Judge or the Clerk of the Court.

(c) Upon completion of the trial, the Court shall enter a judgment consisting of a finding or findings and sentence or sentences, or discharge of the accused.

(d) The Court may suspend any sentence imposed, may order the revocation of any Island automobile permit in motor vehicle cases, and may place the accused on probation. It may delay sentencing pending the receipt of any presentencing report ordered by it.

Subpart L—Appeals and New Trials

§ 935.110 Appeals.

(a) Any party to an action may, within 15 days after judgment, appeal an interlocutory order, issue of law or judgment, except that an acquittal may not be appealed, by filing a notice of appeal with the Clerk of the Wake Island Court and serving a copy on the opposing party. Judgment is stayed while the appeal is pending.

(b) Upon receiving a notice of appeal with proof of service on the opposing party, the Clerk shall forward the record of the action to the Wake Island Court of Appeals.

(c) The appellant shall serve on the opposing party and file a memorandum setting forth his grounds of appeal with the Wake Island Court of Appeals within 15 days after the date of the judgment. The appellee may serve and file a reply memorandum within 15 days thereafter. An appeal and the reply shall be deemed to be filed when deposited in the U.S. mail with proper postage affixed, addressed to the Clerk, Wake Island Court of Appeals, at his address in Washington, D.C. The period for filing of an appeal may be waived by the Court of Appeals when the interests of justice so require.

(d) The Court may proceed to judgment on the record, or, if the Court considers that the interests of justice so require, grant a hearing.

(e) The decision of the Court of Appeals shall be in writing and based on the record prepared by the Wake Island Court, on the proceedings before the Court of Appeals, if any be had, and on any memoranda that are filed. If the Court of Appeals considers the record incomplete, the case may be remanded to the Wake Island Court for further proceedings.

(f) The decision of the Court of Appeals is final.

§ 935.111 New trial.

A Judge of the Wake Island Court may order a new trial as required in the interest of justice, or vacate any judgment and enter a new one, on motion made within a reasonable time after discovery by the moving party of matters constituting the grounds upon which the motion for new trial or vacation of judgment is made.

[37 FR 12384, June 23, 1972; 37 FR 13475, July 4, 1972]

Subpart M—Peace Officers

§ 935.120 Authority.

Peace officers—

(a) Have the authority of a sheriff at common law;

(b) May serve any process on Wake Island that is allowed to be served under a Federal or State law. The officer serving the process shall execute any required affidavit of service;

(c) May conduct sanitation or fire prevention inspections;

(d) Inspect motor vehicles, boats and aircraft;

(e) May confiscate property used in the commission of a crime;

(f) May deputize any person to serve as a peace officer;

(g) May investigate accidents and suspected crimes;

(h) May direct vehicular or pedestrian traffic;

(i) May remove and impound abandoned or unlawfully parked vehicles, boats or aircraft, or vehicles, boats or aircraft interfering with fire control apparatus or ambulances;

(j) May take possession of property lost, abandoned, or of unknown ownership;

(k) Enforce quarantines;

(l) May impound and destroy food, fish, or beverages found unsanitary;

(m) May be armed;

(n) May exercise custody over persons in arrest or confinement;

(o) May issue citations; and

(p) May make arrests, as provided in § 935.122.

§ 935.122 Arrests.

(a) Any person may make an arrest on Wake Island, without a warrant, for any crime (including a petty offense) that is committed in his presence.

(b) Any peace officer may, without a warrant, arrest any person on Wake Island who violates any provision of this part or commits a crime that is not a violation of this part, in his presence, or that he reasonably believes that person to have committed.

(c) In making an arrest, a peace officer must display a warrant, if he has one, or otherwise clearly advise the person arrested of the violation alleged, and thereafter require him to submit and be taken before the appropriate official on Wake Island.

(d) In making an arrest, a peace officer may use only the degree of force needed to effect submission, and may remove any weapon in the possession of the person arrested.

(e) A peace officer may, whenever necessary to enter any building, vehicle, or aircraft to execute a warrant of arrest, force an entry after verbal warning.

(f) A peace officer may force an entry into any building, vehicle, or aircraft whenever—

(1) It appears necessary to prevent serious injury to persons or damage to property and time does not permit the obtaining of a warrant;

(2) To effect an arrest when in hot pursuit; or

(3) To prevent the commission of a crime which he reasonably believes is being committed or is about to be committed.

§ 935.124 Warrants.

Any judge of the Wake Island Court may issue or direct the Clerk to issue a warrant for arrest if, upon complaint, it appears that there is probable cause to believe an offense has been committed and that the person named in the warrant has committed it. If a judge is not available, the warrant may be issued by the Clerk and executed, but any such warrant shall be thereafter approved or quashed by the first available judge. The issuing officer shall—

(a) Place the name of the person charged with the offense in the warrant, or if his name is not known, any name or description by which he can

be identified with reasonable certainty;

(b) Sign the warrant;

(c) Describe in the warrant the offense charged;

(d) Issue the warrant to a peace officer for execution; and

(e) Place in the warrant a command that the person charged with the offense be arrested and brought before the Court.

[37 FR 12384, June 23, 1972; 37 FR 13470, July 8, 1972]

§ 935.126 Release from custody.

The Chief Judge may authorize the Clerk to issue pro forma orders of the Court discharging any person from custody, with or without bail, pending trial, whenever further restraint is not required for protection of persons or property on Wake Island. Persons not so discharged shall be brought before a Judge or U.S. Magistrate as soon as a Judge or Magistrate is available. Judges may discharge defendants from custody, with or without bail or upon recognizance, or continue custody pending trial as the interests of justice, in their discretion, require.

§ 935.128 Citation in place of arrest.

In any case in which a peace officer may make an arrest without a warrant, he may issue and serve a citation if he considers that the public interest does not require an arrest. The citation must briefly describe the offense charged and direct the accused to appear before the Wake Island Court at a designated time and place.

Subpart N—Motor Vehicle Code

§ 935.130 Applicability.

This subpart applies to self-propelled motor vehicles (except aircraft), including attached trailers.

§ 935.131 Right-hand side of the road.

Each person driving a motor vehicle on Wake Island shall drive on the right-hand side of the road, except where necessary to pass or where a sign declaring one-way traffic is posted.

§ 935.132 Speed limits.

Each person operating a motor vehicle on Wake Island shall operate it at a speed—

(a) That is reasonable, safe, and proper, considering road and weather conditions, the kind of motor vehicle, and the proximity to persons or buildings, or both; and

(b) That does not exceed 40 miles an hour or such lesser speed limit as may be posted.

§ 935.133 Right-of-way.

(a) A pedestrian has the right-of-way over vehicular traffic when in the vicinity of a building, school, or residential area.

(b) In any case in which two motor vehicles have entered an intersection at the same time, the vehicle on the right has the right-of-way.

(c) If the driver of a motor vehicle enters an intersection with the intent of making a left turn, he shall yield the right-of-way to any other motor vehicle that has previously entered the intersection or is within hazardous proximity.

(d) When being overtaken by another motor vehicle, the driver of the slower vehicle shall move it to the right to allow safe passing.

(e) Each driver of a motor vehicle shall yield the right-of-way to an emergency vehicle on an emergency run.

§ 935.134 Arm signals.

(a) A signal for a turn or stop is made by fully extending the left arm as follows:

(1) Left turn—extend left arm horizontally.

(2) Right turn—extend left arm upward.

(3) Stop or decrease speed—extend left arm downward.

(b) A signal light or other device may be used in place of an arm signal prescribed in paragraph (a) of this section if it is visible and intelligible.

§ 935.135 Turns.

(a) Each person making a right turn in a motor vehicle shall make the approach and turn as close as practicable to the right-hand curb or road edge.

(b) Each person making a left turn in a motor vehicle shall make the approach and turn immediately to the right of the center of the road, except that on multi-lane roads of one-way traffic flow he may make the turn only from the left lane.

(c) No person may make a U-turn in a motor vehicle if he cannot be seen by the driver of each approaching vehicle within a distance of 500 feet.

(d) No person may place a vehicle in motion from a stopped position, or change from or merge into a lane of traffic, until he can safely make that movement.

§ 935.136 General operating rules.

No person may, while on Wake Island—

(a) Operate a motor vehicle in a careless or reckless manner;

(b) Operate or occupy a motor vehicle while he is under the influence of a drug or intoxicant;

(c) Consume an alcoholic beverage (including beer, ale, or wine) while he is in a motor vehicle;

(d) Operate a motor vehicle that is overloaded or is carrying more passengers than it was designed to carry;

(e) Ride on the running board, step, or outside of the body of a moving motor vehicle;

(f) Ride a moving motor vehicle with his arm or leg protruding;

(g) Operate a motor vehicle in a speed contest or drag race; except in areas designated for the purpose by the Commander and under safety precautions approved by him;

(h) Park a motor vehicle for a period longer than the posted time limit;

(i) Stop, park, or operate a motor vehicle in a manner that impedes or blocks traffic;

(j) Park a motor vehicle in an unposted area, except adjacent to the right-hand curb or edge of the road;

(k) Park a motor vehicle in a reserved or restricted parking area that is not assigned to him;

(l) Sound the horn of a motor vehicle, except as a warning signal;

(m) Operate a tracked or cleated vehicle in a manner that damages a paved or compacted surface;

(n) Operate any motor vehicle contrary to a posted traffic sign;

(o) Operate a motor vehicle as to follow any other vehicle closer than is safe under the circumstances;

(p) Operate a motor vehicle off of established roads, or in a cross-country manner, except when necessary in conducting buisiness; or

(q) Operate a motor vehicle at night on the traveled part of a street or road, without using operating headlights.

§ 935.137 Operating requirements.

(a) Each person operating a motor vehicle on Wake Island shall—

(1) Dim the headlights of his vehicle when approaching an oncoming vehicle at night; and

(2) Comply with any special traffic instruction given by an authorized person.

§ 935.138 Motor bus operation.

Each person operating a motor bus on Wake Island shall—

(a) Keep its doors closed while the bus is moving with passengers on board; and

(b) Refuse to allow any person to board or alight the bus while it is moving.

§ 935.139 Motor vehicle operator qualifications.

(a) No person may operate a privately owned motor vehicle on Wake Island unless he has an island operator's permit.

(b) The Commander may issue—

(1) A student operator's permit to any person who is at least 14 years of age, to be exercised only when the holder is accompanied by a qualified operator who assumes full responsibility for operating the vehicle; and

(2) An unlimited operator's permit to any person who is at least 16 years of age and satisfactorily demonstrates safe-driving knowledge, ability, and physical fitness.

(c) No person may operate, on Wake Island, a motor vehicle owned by the United States unless he holds a current operator's permit issued by the United States.

(d) Each person operating a motor vehicle on Wake Island shall present

his operator's permit to any peace officer, for inspection, upon request.

§ 935.139a Motor vehicle maintenance and equipment.

(a) Each person who has custody of a motor vehicle on Wake Island shall present that vehicle for periodic safety inspection, as required by the Commander.

(b) No person may operate a motor vehicle on Wake Island unless it is in a condition that the Commander considers to be safe and operable.

(c) No person may operate a motor vehicle on Wake Island unless it is equipped with an adequate and properly functioning—

(1) Horn;

(2) Wiper, for any windshield;

(3) Rear vision mirror;

(4) Headlights and taillights;

(5) Muffler; and

(6) Spark or ignition noise suppressors.

(d) No person may operate a motor vehicle on Wake Island if that vehicle is equipped with a straight exhaust or muffler cutoff, except as may be authorized pursuant to § 935.136(g).

Subpart O—Registration and Island Permits

§ 935.140 Registration.

(a) Each person who has custody of any of the following on Wake Island shall register it with the Commander.

(1) A privately owned motor vehicle.

(2) A privately owned boat.

(3) An animal.

(4) Any device or instrument primarily designed for inflicting bodily injury, including a gun, pistol, or other firearm operated by air, gas, spring, or otherwise.

(5) A narcotic or dangerous drug or any poison.

(6) Any explosive.

(b) Each person who obtains custody of an article described in paragraphs (a) (4), (5), or (6) of this section shall register it immediately upon obtaining custody. Each person who obtains custody of any other article described in paragraph (a) of this section shall register it within 10 days after obtaining custody.

§ 935.141 Island permit for boat, vehicle, or firearm.

(a) No person may use a privately owned motor vehicle, boat, or a firearm, gun, or pistol operated by air, gas, or spring, or otherwise, on Wake Island unless he has an island permit for it.

(b) The operator of a motor vehicle shall display its registration number on the vehicle in a place and manner prescribed by the Commander.

§ 935.142 Activities for which permit is required.

No person may engage in any of the following on Wake Island unless he has an island permit:

(a) Any business, commercial, or recreational activity conducted for profit, including a trade, profession, calling, or occupation, or an establishment where food or beverage is prepared, offered, or sold for human consumption (except for personal or family use).

(b) The practice of any medical profession, including dentistry, surgery, osteopathy, and chiropractic.

(c) The erection of any structure or sign, including a major alteration or enlargement of an existing structure.

(d) The discharge of explosives or fireworks or of firearms, guns, or pistols operated by air, gas, spring, or otherwise.

(e) The burial of any human or animal remains, except that fish and bait scrap may be buried at beaches where fishing is permitted, without obtaining a permit.

(f) Keeping or maintaining an animal.

Subpart P—Public Safety

§ 935.150 Emergency requirements and restrictions.

In the event of any fire, crash, search, and rescue, natural disaster, national peril, radiological hazard, or other calamitous emergency—

(a) No person may impede or hamper any officer or employee of the United States or any other person who has emergency authority;

(b) No unauthorized persons may congregate at the scene of the emergency; and

(c) Each person present shall promptly obey the instructions, signals, or alarms of any peace officer, fire or crash crew, or other authorized person, and any orders of the Commander.

§ 935.151 Fire hazards.

(a) Each person engaged in a business or other activity on Wake Island shall, at his expense, provide and maintain (in an accessible location) fire extinguishers of the type, capacity, and quantity satisfactory for protecting life and property in the areas under that person's control.

(b) To minimize fire hazards, no person may store any waste or inflammable fluids or materials except in a manner and at a place prescribed by the Commander.

§ 935.152 Use of special areas.

The Commander may regulate the use of designated or posted areas on Wake Island, as follows:

(a) Restricted areas—which no person may enter without permission.

(b) Prohibited activities areas—in which no person may engage in any activity that is specifically prohibited.

(c) Special purpose areas—in which no person may engage in any activity other than that for which the area is reserved.

[37 FR 12384, June 23, 1972; 37 FR 13470, July 8, 1972]

§ 935.153 Unexploded ordnance material.

Any person who discovers any unexploded ordnance material on Wake Island shall refrain from tampering with it and shall immediately report its site to the Commander.

§ 935.154 Boat operations.

The operator of each boat used at Wake Island shall conform to the limitations on its operations as the Commander may prescribe in the public interest.

§ 935.155 Floating objects.

No person may anchor, moor, or beach any boat, barge, or other floating object on Wake Island in any location or manner other than as prescribed by the Commander.

PARTS 936–949 [RESERVED]

SUBCHAPTER O—SPECIAL INVESTIGATION

PART 950--AUTHORITY TO ADMINISTER OATHS

Sec.
950.1 Purpose.
950.2 Special agents.
950.3 Military and civilian authority.
950.4 Authority to administer oaths.

AUTHORITY: 10 U.S.C. 8012.

SOURCE: 43 FR 32411, July 27, 1978, unless otherwise noted.

§ 950.1 Purpose.

This part specifies who is authorized to administer oaths in connection with official Air Force Office of Special Investigation (AFOSI) investigations, and cites the laws pertaining to such authority. It applies to all AFOSI special agent personnel.

§ 950.2 Special agents.

Special agents are those military and civilian personnel who have been designated as special agents by the Commander, AFOSI, and have been issued badges and credentials identifying them as such.

(a) Special agents of the AFOSI are authorized to administer oaths in connection with official investigative duties within the scope of the laws cited in § 950.3.

(b) Special agents may be USAF Reserve Mobilization Augmentees assigned to AFOSI as special agents. However, the authority for reservist agents to administer oaths is limited to annual active duty training periods only. All other reserve training periods are inactive duty periods, and reservist special agents will not administer oaths during these periods.

§ 950.3 Military and civilian authority.

(a) The specific authority for AFOSI military special agents to administer oaths is contained in the Uniform Code of Military Justice, Article 136.

(b) The authority for civilian investigators is established and limited by 5 U.S.C. 303.

§ 950.4 Authority to administer oaths.

(a) The authority to administer oaths under this part applies only to official investigative duties as prescribed by AFR 23-18, Air Force Office of Special Investigations (AFOSI), and does not permit personnel to administer oaths or to take sworn statements in connection with other matters.

(b) The authority vested in individual military and civilian AFOSI, special agents under this part terminates when the special agent is reassigned from AFOSI or upon withdrawal of special agent accreditation by the Commander, AFOSI.

PART 951—AIR FORCE OFFICE OF SPECIAL INVESTIGATIONS SPECIAL AGENTS

Sec.
951.1 Purpose.
951.2 Special Agents.

§ 951.1 Purpose.

(a) This part explains AFOSI special agents.

(b) Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

(10 U.S.C. 8012)

[39 FR 34410, Sept. 25, 1974]

§ 951.2 Special Agents.

A "Special Agent" is authorized to conduct investigations in accordance with Air Force Regulation (AFR) 23-18 (Air Force Office of Special Investigations). Each agent is issued a badge and credentials to identify him as an accredited agent. While he is engaged in an investigation, a Special Agent may:

(a) Enter any U.S. Air Force installation or off-limits area not specifically prohibited by Air Force directives for security reasons, and

(b) Have access to such documents, records, publications, files and persons necessary for the successful conduct of the investigation.

(10 U.S.C. 8012)

[39 FR 34410, Sept. 25, 1974]

PART 952—REQUESTING AFOSI INVESTIGATIONS AND SAFEGUARDING, HANDLING, AND RELEASING INFORMATION FROM AFOSI REPORTS

Sec.
952.1 Purpose.
952.2 Terms explained.
952.3 Who may initiate an AFOSI investigation.
952.4 Responsibilities of commanders.
952.5 Official actions which may affect an investigation.
952.6 Submitting a request for investigation.
952.7 Mandatory notification of HQ AFOSI by AFOSI districts.
952.8 Transmitting and safeguarding AFOSI reports of investigation.
952.9 Special handling required.
952.10 Use of AFOSI reports by commanders.
952.11 Preparation of extracts or summaries.
952.12 Release of statements to individuals.
952.13 Releases requiring HQ AFOSI approval
952.14 Requests for information under the Freedom of Information Act and Privacy Act of 1974.
952.15 Release of reports prepared by non-U.S. Air Force agencies.
952.16 Releases outside the U.S. Air Force.

AUTHORITY: 10 U.S.C. 8012.

SOURCE: 43 FR 33908, Aug. 2, 1978, unless otherwise noted.

§ 952.1 Purpose.

This part identifies who may request the Air Force Office of Special Investigations (AFOSI) to initiate an investigation and explains how to request an investigation. It describes how, when, and to whom the reports and information developed during the conduct of AFOSI investigation may be released and sets forth the special procedures to follow in handling AFOSI reports and investigative information.

§ 952.2 Terms explained.

(a) *Action Commander.* The commander responsible for taking judical or administrative action as the result of the AFOSI investigation.

(b) *AFOSI Investigation.* A formal inquiry by AFOSI in any matter falling within the AFOSI investigative responsibility as set forth in AFR 23-18, Air Force Office of Special Investigations.

(c) *AFOSI Investigative Responsibility.* See AFR 23-18 for an explanation of those matters falling within the AFOSI investigative responsibility. Also see Part 953 of this chapter, AFRs 124-16, DOD-USSS Agreement Concerning Protection of the President and Other Officials, 124-17, Protective Services, AFR 205-32, USAF Personnel Security Program, and AFR 205-57, Reporting and Investigating Espionage, Sabotage, Terrorism, and Subversion, for policy addressing specific investigative support.

(d) *AFOSI Reports of Investigations.* The official written record of the results of an AFOSI investigation. As used here, it includes not only the formal report of investigation, but all other correspondence pertaining directly to the investigation, such as letters of request, transmittal documents, request for command action, evidence disposition, and so forth, as well as exhibits, statements, and attachments.

(e) *Authorized Requester.* A competent authority who may formally request that AFOSI conduct an investigation on a matter falling within the AFOSI investigative responsibility. § 952.3 identifies the authorized requesters.

(f) *Subject.* A person who is accused or suspected of having committed an offense or whose activity or background is under investigation. The listing of an individual, group, company, or entity as the subject of an AFOSI investigation should not, by itself, be interpreted as an indication of guilt or wrongdoing.

§ 952.3 Who may initiate an AFOSI investigation.

(a) An authorized requester: (1) Any Air Force commander responsible for the security, discipline, and law enforcement of a command or installation. Generally, this is the installation commander or higher authority.

(2) Any other military service commander authorized by formal interservice agreements to request AFOSI investigations.

(3) Any official authorized by regulation, directive, or law to request AFOSI investigations.

(b) The Commander, AFOSI, or any AFOSI district commander when it is obvious that obtaining a request from an authorized requester in advance might handicap the investigation or cause evidence to perish. In all such instances, the concurrence of the authorized requester is obtained as soon as practical after the investigation has begun and a written request for investigation is secured.

§ 952.4 Responsibilities of commanders.

(a) Promptly advise AFOSI of any matter which falls within the AFOSI investigative responsibility. When the commander is not an authorized requester and the matter appears to warrant an AFOSI investigation, he or she refers it to the appropriate authorized requester. Only actual request for investigation need be made in writing.

(b) Ensure that the subject of an AFOSI investigation is not informed of the investigation when such action could prejudice the successful resolution of the matter. Promptly notify the servicing AFOSI unit when there is any reason to believe an investigation has been compromised.

(c) When requested by AFOSI, report to AFOSI any action taken as the result of an AFOSI investigation, or the fact that no action was taken. When an AFOSI investigation results in a court-martial, the formulation of a board or other administrative action, promptly notify AFOSI of the results. The results include findings, sentence, or other action. Such reporting should not be delayed solely to await the results of final administrative or judicial review. Promptly furnish AFOSI with disposition instructions for any evidence seized during the investigation.

(d) Coordinate with the servicing AFOSI unit any official action concerning the subject which may affect the investigation.

§ 952.5 Official actions which may affect an investigation.

(a) *Reassignment.* Normally the subject of an AFOSI investigation is not reassigned until the investigation has been completed and command action taken and reported. When commanders find it impractical to follow this policy, they notify AFOSI before reassigning the subject.

(b) *Other personnel and administrative actions.* Exercise care in taking other administrative and personnel actions regarding the subject which might compromise or otherwise interfere with the investigation. Before taking any such action regarding a subject, the matter is coordinated with the servicing AFOSI unit.

(c) *Involuntary extension of tour.* If necessary, the tour of a subject may be involuntarily extended by the commander according to AFR 36-20, Officer Assignments, and AFR 39-11, Airman Assignments.

(d) *Retention beyond expiration of enlistment or required service.* The subject of an AFOSI investigation should not be allowed to reenlist while a matter is under active investigation, except in the most unusual circumstances and then only after approval of the servicing Staff Judge Advocate. The subject may be retained on active duty beyond enlistment or required service period only according to AFM 39-10, Separation Upon Expiration of Term of Service for Convenience of Government, and AFR 36-12, Administrative Separation of Commissioned Officers and Warrant Officers of the Air Force. The commander should coordinate his or her decision with the servicing AFOSI unit before permitting a subject to reenlist or be released from active duty.

§ 952.6 Submitting a request for investigation.

(a) Authorized requesters of AFOSI investigations submit their requests:

(1) For investigations of suspected violations of public trust in Air Force contract, procurement, and disposal matters, according to Part 953 of this chapter.

(2) For investigation of espionage, sabotage, suspected terrorist activity, and subversion, in accordance with AFR 205-57, Reporting and Investigating Espionage, Sabotage, Terrorism, and Subversion.

90-112 O—82——42

(3) For investigation of a prospective alien spouse of an Air Force member, according to AFP 211-1-6, Requirements and Procedures for Marriage.

(4) For investigations and related support pertaining to protection of the President, other U.S. Secret Service protectees, and USAF dignitaries, according to AFR's 124-16, DOD-USSS Agreement Concerning Protection of the President and Other Officials, and 124-17, Protective Services.

(5) For all other matters and offenses falling within the AFOSI investigative responsibility, directly to the servicing AFOSI unit (see AFR 124-6, Territorial Jurisdiction of AFOSI Districts).

(b) Commanders need not request an AFOSI investigation in matters which, while falling within the investigative scope of AFOSI, are such that:

(1) No command action is indicated.

(2) Appropriate action can be taken without additional AFOSI inquiry, or

(3) An investigation is not otherwise deemed warranted. In these cases, advise AFOSI of the matter and annotate command records to reflect the reason that an AFOSI investigation was not requested. (See also § 952.7.)

(c) Any request for investigation may be made initially either orally or in writing. However, all oral requests must be promptly confirmed in writing. The initial request should be accompanied by all information on the matter to be investigated.

§ 952.7 Mandatory notification of HQ AFOSI by AFOSI districts.

AFOSI Districts will notify HQ AFOSI if:

(a) An AFOSI investigation is initiated.

(b) A formal written request for investigation is declined for any reason.

(c) A matter falling within the AFOSI investigative purview is reported or otherwise comes to the attention of AFOSI and is reported to the responsible authorized requester, but for which no request for investigation is received. Such notifications will include the specific reason given by the responsible authorized requester for not requesting an investigation.

(d) Any information reportable under AFR's 124-16, DOD-USSS Agreement Concerning Protection of the President and Other Officials, or 124-17, Protective Services, is received.

§ 952.8 Transmitting and safeguarding AFOSI reports of investigation.

(a) Mark, transmit, and safeguard all classified AFOSI reports of investigation and related correspondence, in accordance with DOD 5200.1R, Part 850 of this chapter, and other pertinent security directives.

(b) Mark unclassified reports of investigation and related correspondence which contain investigative information, "FOR OFFICIAL USE ONLY" according to AFR 12-31, Use and Protection of "For Official Use Only" information. In addition to the safeguarding and transmittal requirements set forth in AFR 12-31, the following special procedures will be followed:

(1) Transmit all AFOSI reports of investigation in sealed envelopes which bear a notation similar to the following:

TO BE OPENED ONLY BY THE COMMANDER OR PERSONS DESIGNATED BY HIM OR HER TO RECEIVE AFOSI REPORTS OF INVESTIGATION.

(i) These envelopes should not serve as the outer envelope when mailing reports. However, no additional wrapping is required when transferring reports designated FOR OFFICIAL USE ONLY within the Base Information Transfer System.

(ii) These envelopes, when properly marked, may also serve as inner envelopes for classified, packaging when required.

(2) Store AFOSI reports and related material designated FOR OFFICIAL USE ONLY in locked file cabinets.

(3) When destroying AFOSI reports and related material, the process must effect complete obliteration. Destruction must be by shredding, pulping, macerating, or burning.

NOTE: All AFOSI reports of investigation are privileged within the meaning of MCM 1969 (Rev.), paragraph 151, and retain this privilege regardless of classification or the absence thereof.

§ 952.9 Special handling required.

(a) Immediately report any unauthorized disclosure of an AFOSI report of investigation or any information contained therein to the nearest AFOSI unit.

(b) Do not release or grant access to an AFOSI report of investigation or the information contained therein to any individual based solely on grade, title, or position. Do not release or grant access to reports to individuals unless it is required in connection with their official duties and then do so only in strict compliance with § 952.10.

(c) Do not release or grant access to an AFOSI report of investigation or the information contained therein to subjects of investigations or to their counsels or representatives except for extracts and summaries prepared and approved for release according to §§ 952.11 and 952.14.

§ 952.10 Use of AFOSI reports by commanders.

AFOSI furnishes two copies of all AFOSI reports of investigation dealing with matters of direct interest to each authorized requester. The requester establishes internal controls to insure that these reports are adequately safeguarded and promptly referred to the commanders having the responsibility to initiate action. Requesters insure that:

(a) Their higher headquarters and concerned tenant commanders are notified of the AFOSI investigations and furnished with copies of needed reports.

(1) All up-channel reporting is the responsibility of receiving commanders within their own chain of command, except for those investigations falling under AFR 205-57, Reporting and Investigating Espionage, Sabotage, Terrorism, and Subversion.

(2) AFOSI insures through its internal channels that appropriate USAF command levels are notified and briefed concerning investigations falling within the purview of AFR 205-57.

(b) Reproduction of AFOSI reports is properly accomplished and limited to the number of extra copies required to fulfill their responsibilities. The prior concurrence of AFOSI is not required to reproduce copies of reports unless the report:

(1) Contains specific restrictions limiting reproduction;

(2) Was prepared by another agency or contains information concerning an investigation conducted by another agency and further reproduction is not authorized by the report or transmittal document.

(c) All copies of any AFOSI report are properly safeguarded, controlled, and destroyed.

(d) AFOSI reports of investigation or the information contained therein are released to those persons designated by the commander only to:

(1) Prepare charges for court-martial or trial.

(2) Prepare extracts and summaries for use in connection with courts martial, boards, and other administrative proceedings.

(3) Prepare for an official hearing or other administrative proceeding.

(4) Make notes regarding the names and locations of witnesses and the substance of their expected testimony.

(5) Take action to correct deficiencies or irregularities.

(6) Initiate security clearance actions.

(e) AFOSI reports of investigation are not:

(1) Introduced into evidence, included, or incorporated into records, proceedings, or papers to which the subject or respondent, subject's counsel, representative, or the trial counsel has access, except by order of a military judge;

(2) Furnished or made available to an officer conducting an investigation pursuant to Article 32, U.C.M.J.;

(3) Furnished or made available to the subject, respondent, to subject's counsel or representative, to the trial counsel, or board members.

(f) Extracts and summaries are prepared and released according to § 952.11 for use in courts martial, boards, and other official proceedings.

(g) The use or distribution of an AFOSI report of investigation for any purpose not specifically covered by this part is first coordinated with the servicing AFOSI unit.

(h) Neither they nor any of their representatives reveal any information

to unauthorized persons who might disclose or compromise any confidential investigative source, technique, or procedure. If there is any reason to believe that a disclosure to the subject, respondent, subject's counsel or representative, or any other person might result in a compromise of confidential sources, techniques, or procedures, the disclosure will not be made without the prior approval of the Commander, AFOSI.

§ 952.11 Preparation of extracts or summaries.

(a) The action commander or other officials designated by AFOSI prepare all extracts and summaries from AFOSI reports of investigation for which command action has not been completed when they determine a necessity exists. Summaries or extracts may be prepared for release to:

(1) An investigating officer;

(2) Trial counsel, legal, or other advisor to a board;

(3) The subject, accused, or respondent, and subject's counsel or representative.

(4) HQ USAF/DPMAO, Special Control and Records Review Group.

(b) The extract or summary may consist of copies of portions of an AFOSI report or copies of all, or part of, an attachment to an AFOSI report. However, they will not include:

(1) Any information listed in § 952.10(h);

(2) Any information that might prejudice the outcome of any other investigation, whether AFOSI or other governmental agency, such as by prematurely disclosing the nature or existence of that investigation;

(3) Any routine administrative entries made by AFOSI personnel which are common to all AFOSI reports;

(4) The names of AFOSI personnel, except those who took or witnessed statements or who made personal observations included in the report and based on personal knowledge;

(5) Any classified information, if possible. Classified extracts must be properly marked and access controlled according to DOD 5200.1R, Part 850 of this chapter, and other pertinent security directives;

(6) Any information, the disclosure of which would violate public law, policy, or the public interest (see AFR 12-31). For example, a summary or extract should not include any information derogatory to the character, reputation, efficiency, or conduct of any person whose activities are not pertinent to the proceedings.

(c) Prior concurrence of the servicing AFOSI unit is required before any extract or summary may be released except as listed in (d) of this section. Action commanders submit their requests in writing and:

(1) Transmit a copy of each extract or summary to be released;

(2) Specify the purpose for which each summary or extract will be used;

(3) Identify the individual to whom the summaries or extracts will be made available.

(d) The action commander may release extracts or summaries of the statements of individuals which are quoted in or attached to AFOSI reports without prior AFOSI concurrence only if:

(1) There is no prohibition against the release contained in the basic report;

(2) The extract, summary, or statement is not classified;

(3) The release is not prohibited by §§ 952.11(b), 952.13, or 952.15.

(e) If the AFOSI report contains a notation that the information contained in a particular paragraph(s) has been approved for release by AFOSI, care should be exercised to release only this information and not the entire report.

(f) Extracts or summaries of reports are furnished HQ USAF/DPMAO. The Officer Personnel Records Review Board is charged with the responsibility of determining the applicability of the information for Digest File purposes. HQ USAF/DPMAO will control access to extracts as provided for in § 952.9 and other pertinent directives.

§ 952.12 Release of statements to individuals.

Normally witnesses will not be given access to AFOSI reports, extracts, or summaries of investigation. However persons (including subjects and wit-

nesses) who have furnished written statements to AFOSI during an investigation, may be furnished copies of their own statements on request, unless the statement is classified or the AFOSI report stipulates that the statement cannot be released without the prior concurrence of AFOSI.

§ 952.13 Releases requiring HQ AFOSI approval.

(a) Forward all summaries or extracts prepared by any office within HQ USAF which require AFOSI concurrence for release to the Commander, AFOSI.

(b) When a report of investigation concerns investigations of alleged treason, sedition, espionage, subversion, sabotage, or disaffection, the Commander, AFOSI, or higher authority must approve the release of any extracts, summaries, or attached statements.

(c) The prior concurrence of the Commander, AFOSI, is required for any extract or summary that is to be released by any requesting authority to any agency outside the U.S. Air Force.

(d) Process all releases under the Freedom of Information Act (5 U.S.C. 552, as amended by Pub. L. 93-502) or the Privacy Act of 1974 (5 U.S.C. 552a) as outlined in § 952.14

§ 952.14 Requests for information under the Freedom of Information Act and Privacy Act of 1974.

As Federal records, AFOSI reports of investigation, as well as summaries and extracts therefrom, fall under the provisions of the Freedom of Information Act (5 U.S.C. 552, as amended by Pub. L. 93-502) and the Privacy Act of 1974 (5 U.S.C. 552a). (See Parts 806 and 806b of this chapter).

(a) Requests for information from AFOSI reports made under these Acts must contain:

(1) Full name, to include both first, middle, and any other given names.

(2) Any former names, to include maiden and all married names, if appropriate, for women.

(3) Date and place of birth.

(4) Social Security number.

(5) All former service numbers.

(6) When anyone other than the individual mentioned in the file or the individual's legal guardian requests information on that individual, the request must be accompanied by a signed letter form the individual or the individual's legal guardian specifically authorizing AFOSI to release this information to the requester.

(b) Process these requests in the following manner:

(1) *Case awaiting command action.* The action commander will answer directly those requests covered by §§ 952.10, 952.11, and 952.12. All other requests should be forwarded or sent by the requester to AFOSI/DADF, Forrestal Building, 1000 Independence Avenue, Washington, D.C. 20314. If Freedom of Information request is misdirected, the recipient should forward it to the proper office rather than return it to the sender (See Part 806 of this chapter).

(2) *Completed cases.* Request for information from investigations in which the command action has been completed or in which there will be no action should be directed to AFOSI/DADF, Forrestal Building, 1000 Independence Avenue, Washington, D.C. 20314.

(3) Requests Sent Directly to Command:

(i) Except as provided by §§ 952.10, 952.11, and 952.12, USAF commanders promptly forward any requests by any individual for information from pending AFOSI files to AFOSI/DADF. The requester of the information should be notified by the commander in writing that this action has been taken in accordance with this part.

(ii) Any request for information from an AFOSI investigation which has been closed and for which all command action has been completed will be promptly forwarded to AFOSI/DADF. The requester of the information should be notified in writing by the commander that this action has been taken under this part.

§ 952.15 Release of reports prepared by non-U.S. Air Force agencies.

If the material used in a summary or extract was prepared by an investigative or law enforcement agency out-

side the U.S. Air Force and furnished to the requesting authority by AFOSI, the summary or extract must be processed according to § 952.11. The servicing AFOSI unit must obtain the concurrence of the originating agency before concurring in the release of the extract or summary.

§ 952.16 Releases outside the U.S. Air Force.

In addition to the procedures listed in §§ 952.12, 952.13, 952.14, and 952.15, the following procedures apply when an AFOSI report of investigation or related material is to be released to an agency outside the Air Force.

(a) Classified reports and related material, including summaries and extracts, are released only in accord with DOD 5200.1R and Part 850 of this chapter, and then only with the prior concurrence of AFOSI.

(b) Unclassified reports and related material including summaries and extracts designated FOR OFFICIAL USE ONLY will only be released in accordance with AFR 12-31. (See also § 952.8(b).) No person should release any such material outside the Air Force unless authorized by that regulation or approved by the Secretary of the Air Force.

(c) When a request for an AFOSI report or related material (including extracts and summaries designated FOR OFFICIAL USE ONLY) is received from agencies outside the USAF, it will be referred to HQ AFOSI. The Commander, AFOSI, may approve:

(1) The release of an AFOSI report, summary, or extract to a Federal agency within the executive branch, if the agency has a valid need for the information, and the release is not against the public interest or in violation of public law or policy. Before the release is made, it must be determined that the report, extract, or summary will be protected against unauthorized disclosure or use.

(2) A request for the release of information in, or an extract from, an AFOSI report of investigation submitted by any other Federal, State, or local investigative agency, if the requester has a bona fide need and the request is not against the public interest or in violation of the law. Normally entire reports will not be released. Also see §§ 952.10, 952.11, 952.12, and 952.13 for special instructions concerning releases to other agencies and persons.

(d) Process requests for AFOSI reports or investigative information in the following categories in accordance with the regulations listed:

(1) *Pending or potential litigation.* Send to HQ USAF for processing in accord with AFR 110-5, Releasing Information for Litigation and Appearance of Witness Before Civilian Courts and Other Tribunals.

(2) *Congressional request.* Process in accord with AFR 11-7, Air Force Relations with Congress.

(3) *General Accounting Office request.* Process in accord with AFR 11-8, Air Force Relations with General Accounting Office (GAO).

(e) Any authorized requester is permitted to furnish copies of AFOSI reports in premarital investigations concerning prospective alien spouses of Air Force members to the appropriate U.S. consular officials without prior AFOSI approval unless a specific prohibition is established.

PART 953—FRAUD AND VIOLATIONS OF PUBLIC TRUST IN CONTRACT, ACQUISITION, AND OTHER MATTERS

Sec.

953.1 Purpose.
953.2 Fraud and violations of public trust.
953.3 Reporting responsibilities.
953.4 Investigative responsibilities.

AUTHORITY: 10 U.S.C. 8012.

SOURCE: 45 FR 23423, Apr. 7, 1980, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation 124-8, December 14, 1979.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 953.1 Purpose.

This part assigns responsibilities and prescribes procedures for reporting and investigating suspected fraud and violations of public trust—in Air Force

contract, acquisition and other matters—and of Air Force standards of conduct. The part applies to all Air Force members involved with contracts or the acquisition process and the Air Force Office of Special Investigations.

NOTE: All of the personally identifiable records established under the provisions of this regulation are affected by the Privacy Act of 1974 (5 U.S.C. 552a). The authority for establishing and maintaining records concerning these matters is 44 U.S.C. 3101. Records established in accordance with this regulation are maintained in Air Force System F1241007YLNGA Criminal Records. The description of this system of records, its uses and contents have been published in the FEDERAL REGISTER, according to the Privacy Act. The Secretary of the Air Force has exempted this system of records from certain provisions of the Privacy Act, according to 5 U.S.C. 552a(j)(2) (see AFR 12-35).

§ 953.2 Fraud and violations of public trust.

(a) Fraud against the Air Force in acquiring, using, and disposing of resources may occur in two basic forms. First individuals or companies outside of the Air Force, who are performing contracts in support of Air Force needs, may independently attempt to defraud the Air Force. This form of fraud includes, but is not limited to, false billings, willful diversion or misuse of Government property, willful delivery of nonconforming supplies, and collusive bidding. The second form of fraud involves violations of public trust. Air Force personnel (military or civilian), either independently or in concert with individuals or companies outside of the Air Force, may attempt to use their positions of public trust for personal gain at the expense of the Air Force. Violations of public trust include, but are not limited to, collusion, favoritism, bribery, offering, soliciting or accepting gratuities, and conflicts of interest.

(b) The public trust in the integrity of Air Force contract, acquisition, disposal, and all other business transactions is of the utmost importance and must be maintained. All Air Force personnel (military and civilian) who have reason to believe fraud or violations of public trust have been or are being committed, must promptly report all information within their knowledge or belief to the responsible Air Force authorities. Violations of the standards of conduct, as defined in Part 920 of this chapter, also will be reported and investigated in the same manner as fraud and violations of public trust.

§ 953.3 Reporting responsibilities.

The prompt reporting of any indications of fraud or violations of public trust mentioned in § 953.2 is extremely important.

(a) All personnel who have information leading to the belief that any of the violations referred to in § 953.2 have been or may be committed, must report all such information to the nearest Air Force Office of Special Investigations (AFOSI) activity or to the Commander having:

(1) Immediate jurisdiction over the Air Force personnel allegedly involved; or

(2) Administrative responsibility for the contract(s) involved.

(b) The commander who receives information that shows possible fraud or violations of public trust, as described in § 953.2, must promptly refer the matter to the nearest AFOSI activity for investigation.

(c) All personnel are required to prevent the disclosure of such information to unauthorized persons. Unauthorized or premature disclosure could compromise any subsequent investigation or could damage, without cause, the reputation of persons ultimately determined as innocent of wrongdoing.

(d) Fraudulent activities often appear on the surface as administrative or managerial irregularities; therefore, an individual should never assume the responsibility for deciding the significance of the information under consideration. Any question of fault on the part of any individual or company is resolved by reporting the information.

§ 953.4 Investigative responsibilities.

(a) Within the Air Force jurisdiction, AFOSI investigates all suspected fraud in Air Force contract, acquisition, disposal transactions, and other

matters, when requested by the appropriate commander. The AFOSI forwards initial, interim, and final reports of investigation to the commander concerned, for information and necessary action. In appropriate cases, AFOSI coordinates investigations conducted outside the United States with host country authorities, as provided for in the Status of Forces Agreement or related agreements.

(b) AFOSI refers appropriate cases in these categories to the Department of Justice (including the Federal Bureau of Investigation) and coordinates Air Force investigations with all interested Government agencies. Air Force commanders must not refer allegations or complaints on such matters, either to the local or the national office of the Department of Justice (or the Federal Bureau of Investigation); however, they must cooperate fully with representatives of the Department of Justice, when requested.

(c) The AFOSI district serving the commander concerned (see § 953.3(a)) informs the commander when information of the type covered by this part is furnished directly to any echelon of the AFOSI. It also informs the commander of the nature of the information, so the commander can determine if an investigation should be requested.

PART 954—ACQUISITION OF INFORMATION CONCERNING PERSONS AND ORGANIZATIONS NOT AFFILIATED WITH THE DEPARTMENT OF DEFENSE

Sec.

954.1 Purpose.
954.2 Applicability.
954.3 General policy.
954.4 Controls.
954.5 Authorized activities.
954.6 Prohibited activities.
954.7 Operational guidance.

AUTHORITY: 10 U.S.C. 8012.

SOURCE: 39 FR 34412, Sept. 25, 1974, unless otherwise noted.

§ 954.1 Purpose.

(a) This part establishes Air Force policy, limitations, procedures, and operational guidance pertaining to the collecting, processing, storing, and dissemination of information concerning persons and organizations not affiliated with the Department of Defense. It applies to all investigations, whether conducted by a command or by the Office of Special Investigation (OSI).

(b) Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 954.2 Applicability.

(a) This part is applicable to all U.S. Air Force personnel, components, and organizations within the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and U.S. territories and possessions. This part covers all investigations conducted by a command, as well as those conducted by the Office of Special Investigations.

(b) This part is not applicable to the acquisition of foreign intelligence information or to activities involved in ensuring communications security.

(c) Responsibility for execution of functions and tasks in this part will be determined in accordance with pertinent Air Force directives which assign mission, responsibilities, and functions to Air Force activities.

§ 954.3 General policy.

(a) Air Force policy prohibits collecting, reporting, processing, or storing information on individuals or organizations not affiliated with the Department of Defense, except in those limited circumstances where such information is essential to the accomplishment of the Department of Defense or Air Force missions as outlined in this section.

(b) In order to ensure compliance with the policy as stated in paragraph (a) of this section, information-gathering activities shall be subject to overall civilian control at Department of Defense and Department of Air Force level, and to a high level of general supervision and frequent inspections at the field level by OSI and designated external groups.

(c) Where collection activities are authorized to meet an essential requirement for information, maximum

reliance shall be placed upon domestic civilian investigative agencies, Federal, State, and local.

§ 954.4 Controls.

To establish a coordinated Defense Investigative Program within the Department of Defense, and to assign functions and responsibilities for the administration of the program, DOD Directive 5200.26 was issued on February 17, 1971. This directive establishes a Defense Investigative Program with the Assistant Secretary of Defense (Administration) being delegated responsibility to direct, manage, and inspect military investigative and related counterintelligence activities. A Defense Investigative Review Council (DIRC), which includes the Under Secretary of the Air Force as a member, has been established to assist the Assistant Secretary of Defense (Administration) in carrying out these responsibilities.

§ 954.5 Authorized activities.

U.S. Air Force units are authorized to gather information consistent with their assigned missions and which is essential to the accomplishment of the following Defense missions.

(a) *Protection of USAF or other DOD functions and property.* Information may be acquired about activities threatening defense military and civilian personnel and defense activities and installations, including vessels, aircraft, communications equipment and supplies. Only the following types of activities justify acquistion of information under the authority of this section:

(1) Subversion of loyalty, discipline, or morale of Air Force or other Department of Defense military or civilian personnel, where pertinent, by actively encouraging violation of law, disobedience of lawful order or regulations, or disruption of military activities.

(2) Theft of arms, ammunition, or equipment, or destruction or sabotage of facilities, equipment, or records belonging to Air Force or other DOD units or installations, where pertinent.

(3) Acts jeopardizing the security of Air Force or other DOD elements, where pertinent, or operations or compromising classified defense information by unauthorized disclosure or by espionage.

(4) Unauthorized demonstrations on active or Reserve Air Force installations.

(5) Direct threats to Air Force or other DOD military or civilian personnel in connection with their official duties, or to other persons whom the Air Force has been authorized to protect.

(6) Activities endangering facilities which have classified defense contracts, or which have been officially designated as key defense facilities.

(7) Crime for which the Air Force has responsibility for investigating or prosecuting.

(b) *Personnel security.* Investigations may be conducted in relation to the following categories of persons:

(1) Members of the Air Force or other U.S. Armed Forces, including retired personnel; members of the Reserve Components; and applicants for commission or enlistment.

(2) Air Force or other DOD civilian personnel and applicants for such status.

(3) Persons having need for access to official information requiring protection in the interest of national defense under the Department of Defense Industrial Security Program or being considered for participating in other authorized Department of Defense programs.

(c) *Operations related to civil disturbances.* The Attorney General of the United States is the chief civilian officer in charge of coordinating all Federal Government activities relating to civil disturbances. Upon specific prior authorization of the Secretary of the Army, as designee of the Secretary of Defense, information may be acquired which is essential to meet operational requirements flowing from the mission assigned to the Department of Defense by the President to assist civil authorities in dealing with civil disturbances. Authorizations will be granted only when there is a distinct threat of a civil disturbance exceeding the law enforcement capabilities of State and local authorities. All requests for authorizations will be submitted to the Chief of Staff through The Inspector

General for transmittal to the Under Secretary of the Air Force. Under DOD Directive 5200.27, final approval authority of these requests is vested in the Secretary of the Army, and may be delegated only to the Under Secretary of the Army.

§ 954.6 Prohibited activities.

The acquisition of information on individuals or organizations not affiliated with the Department of Defense will be restricted to that which is essential to the accomplishment of assigned Air Force missions under this part. The following activities are specifically prohibited:

(a) No information shall be acquired about a person or organization solely because of lawful advocacy of measures in opposition to Government policy.

(b) There shall be no physical or electronic surveillance of Federal, State, or local officials, or of candidates for such offices.

(c) There shall be no electronic surveillance of any individual or organization except as authorized by law.

(d) There shall be no covert or otherwise deceptive surveillance or penetration of civilian organizations unless specifically approved by the Under Secretary of the Air Force after authorization by the Chairman, DIRC. All requests will be submitted to the Chief of Staff through The Inspector General for transmittal to the Under Secretary of the Air Force, and, if deemed appropriate, will be presented to DIRC by the Under Secretary of the Air Force. Prior to submitting requests to DIRC, all prospective activities will be coordinated with the Federal Bureau of Investigation by HQ USAF.

(e) No Air Force personnel will be assigned to attend public or private meetings, demonstrations, or other similar activities off of a military installation for the purpose of acquiring information, the collection of which is authorized by this part, without specific prior approval by the Under Secretary of the Air Force. Approval authority may not be delegated to any other person. Requests for approval will be submitted to the Chief of Staff through The Inspector General by transmittal to the Under Secretary. An exception to this policy may be made by the local commander concerned, or higher authority, when, in his judgment, the threat is direct and immediate and time precludes obtaining prior approval. In each such case a report will be made immediately to the Chief of Staff through The Inspector General for transmittal to the Under Secretary.

(f) No computerized data banks shall be maintained relating to individuals or organizations not affiliated with the Department of Defense. Approval for exceptions to this prohibition lies with the Under Secretary of the Air Force after authorization by the Chairman, DIRC. All Air Force requests for authorization will be addressed to the Chief of Staff through The Inspector General, and will be presented to DIRC by the Under Secretary of the Air Force if deemed appropriate.

(g) No practice or training in the art of acquisition of information shall take place using individuals or organizations not affiliated with the Department of Defense.

§ 954.7 Operational guidance.

(a) Nothing in this part shall be construed to prohibit the prompt reporting to law enforcement agencies of any information indicating the existence of a threat to life or property, or the violation of law, nor to prohibit keeping a record of such a report.

(b) Nothing in this part shall be construed to restrict the direct acquisition by overt means of the following information:

(1) Listing of Federal, State, and local officials who have official responsibilities related to the control of civil disturbances. Such listings may be maintained currently.

(2) Physical data on vital public or private installations, facilities, highways, and utilities, as appropriate, to carry out a mission assigned by this part.

(c) Access to information obtained under this part shall be restricted to governmental agencies which require such information in the execution of their duties.

(d) Information within the purview of this part shall be destroyed within 90 days after acquisition unless its retention is required by law or unless its retention is specifically authorized under criteria established by the Secretary of Defense, or through his designee, the Chairman, DIRC.

(e) This part does not abrogate any provision of the Delimitations Agreement of 1949, as amended, between the Federal Bureau of Investigation and the Departments of the Army, Navy and Air Force, nor preclude the collection of information required by Federal Statute or Executive Order. This part does not abrogate or alter any mission responsibilities assigned to Air Force activities by appropriate Air Force directives.

PART 955—OBTAINING FINANCIAL DATA INFORMATION

Sec.

955.0 Purpose.

Subpart A—Obtaining Information From Consumer Reporting Agencies

955.1 General.
955.2 Fair Credit Reporting Act.
955.3 Definitions.
955.4 Permissible uses of consumer reports.
955.5 Effect of the Fair Credit Reporting Act on AFOSI.
955.6 Other information available to AFOSI from consumer reporting agencies.
955.7 Headquarters evaluation.
955.8 Contracts with credit bureaus.
955.9 Penalties.

Subpart B—The Right to Financial Privacy Act of 1978

955.10 Purpose.
955.11 Definitions.
955.12 General rule.
955.13 Exceptions to the general rule.
955.14 Authorized procedures.
955.15 Delay of notice.
955.16 Customer challenge provisions.
955.17 Transfer of financial information.
955.18 Reporting requirements.

Subpart C—AFOSI Procedures for Requesting and Obtaining Information from Banking Institutions

955.19 General applicability.
955.20 Obtaining information in foreign counterintelligence investigations.
955.21 Obtaining information in emergency situations.
955.22 Obtaining information with the customer's consent.
955.23 Obtaining information by administrative subpoena and summons, or judicial subpoena.
955.24 Obtaining information by search warrant.
955.25 Obtaining information by formal written request.
955.26 Delay in notice to the customer applications.
955.27 Customer challenges.
955.28 Transfer of financial information to other agencies.
955.29 Refusal to comply by banking institutions.
955.30 Retention of documents.
955.31 Reporting requirements.

ATTACHMENT 1—RELEASE AUTHORITY FOR CONSUMER REPORTING AGENCY
ATTACHMENT 2—CERTIFICATE OF COMPLIANCE WITH THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978
ATTACHMENT 3—SAMPLE NOTICE TO THE CUSTOMER OF EMERGENCY ACCESS
ATTACHMENT 4—CUSTOMER CONSENT FOR BANKING INSTITUTIONS
ATTACHMENT 5—SAMPLE NOTICE TO THE CUSTOMER OF ACCESS BY SEARCH WARRANT
ATTACHMENT 6—SAMPLE NOTICE OF ACCESS BY FORMAL WRITTEN REQUEST
ATTACHMENT 7—SAMPLE OF FORMAL WRITTEN REQUEST
ATTACHMENT 8—SAMPLE FORMAT FOR REQUESTING BASIC IDENTIFYING ACCOUNT DATA
ATTACHMENT 9—SAMPLE NOTICE TO CUSTOMER OF DELAY OF NOTICE (SEARCH WARRANTS)
ATTACHMENT 10—SAMPLE NOTICE TO CUSTOMER OF DELAY OF NOTICE (FORMAL WRITTEN REQUEST)
ATTACHMENT 11—SAMPLE NOTICE TO CUSTOMER OF TRANSFERRED INFORMATION

AUTHORITY: 92 Stat. 3697, et seq., (12 U.S.C. 3401, et seq.).

SOURCE: 45 FR 49922, July 28, 1980, unless otherwise noted.

NOTE: This part is derived from Headquarters Air Force Office of Special Investigations Regulation 124-49, June 25, 1980. Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells the members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 955.0 Purpose.

This part establishes policies regarding the obtaining of financial data information on individuals, organizations and businesses during investiga-

tions. It cites restrictions on the obtaining of financial data from consumer reporting agencies, including those of the Fair Credit Reporting Act (15 U.S.C. 1681), and outlines policy on signing contracts with credit bureaus. It also implements Public Law 95-630, Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et. seq.), and DOD Directive 5400.12, Obtaining Information from Financial Institutions, in establishing procedures for requesting and obtaining information from banks and other financial institutions. It is not the intent of this part to confer rights on any person or to impose constraints more restrictive than those of the applicable law.

Subpart A—Obtaining Information From Consumer Reporting Agencies

§ 955.1 General.

Subject to the restrictions set out in this part, financial data information should be procured on subjects, suspects and other involved individuals or businesses whenever it pertains to the investigation. Financial data information may be useful in tracing income and expenditures of a subject or suspect, in developing complete information on the subject's financial background, or for confirming or refuting statements or testimony. This part does not set forth specific circumstances or conditions under which financial data information will be procured.

§ 955.2 Fair Credit Reporting Act.

The Fair Credit Reporting Act (15 U.S.C. 1681), enacted in 1970 and administered by the Federal Trade Commission, regulates consumer reports prepared by consumer reporting agencies for use in employment purposes, or for the extension of credit or insurance to individuals or families in their private capacity within the United States and its territories. The law does not apply outside of the United States and its territories, nor to reports compiled by consumer reporting agencies on business concerns or for the extension of credit or insurance to individuals in their professional or independent business capacity.

§ 955.3 Definitions.

(a) *Consumer Reporting Agency.* Any person or business which, for mandatory fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. A credit bureau is a consumer reporting agency, but the definition is broad enough to include any business which discloses any credit information on a consumer other than that information relating to its own dealings with that consumer. For example, a department store may provide information concerning its dealings with a consumer without being considered a consumer reporting agency, but it cannot disclose any information in its files relating to the consumer's credit transactions with another individual or business without becoming a consumer reporting agency. Of course, if the store complies with the Act governing consumer reporting agencies, then it is free to disclose financial information concerning the consumer and third parties.

(b) *Consumer Report.* Any written or oral communication by a consumer reporting agency bearing on a consumer's credit worthiness, standing or capacity, or on his or her character, general reputation, personal characteristics, or mode of living, which is based in whole or in part on transactions or experiences between the consumer and third parties, is a consumer report under the law. Any report containing information solely as to transactions or experiences between the consumer and the person making the report is not a consumer report under the law.

(c) *Consumer.* An individual or family in his or her or its private capacity.

§ 955.4 Permissible uses of consumer reports.

Section 1681b of the Act governs the circumstances under which a consumer reporting agency may legally re-

lease consumer reports. That section is quoted as follows:

"A consumer reporting agency may furnish a consumer report under the following circumstances and no other:

"(1) In response to the order of a court having jurisdiction to issue such an order.

"(2) In accordance with the written instructions of the consumer to whom it relates.

"(3) To a person which it has reason to believe—

"(A) Intends to use the information in connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer, or

"(B) Intends to use the information for employment purposes;

"(C) Intends to use the information in connection with the underwriting of insurance involving the consumer; or

"(D) Intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status; or

"(E) Otherwise has a legitimate business need for the information in connection with a business transaction involving the consumer."

§ 955.5 Effect of the Fair Credit Reporting Act on AFOSI.

The Air Force Office of Special Investigations (AFOSI) can legally request consumer reports from a consumer reporting agency only when it presents the consumer's written permission, or when it intends to use the information for employment purposes or for determining the consumer's eligibility for a license or other benefit. The Act provides for obtaining consumer reports by court order, but this means is not readily available to AFOSI. A military or civilian court before which litigation is pending could issue such an order, but no court would normally issue an order merely to aid an AFOSI investigation.

(a) *Consumer's Written Permission.* No matter what the consumer report will be used for, a consumer reporting agency is authorized to release a consumer report when the consumer's written permission is presented. In any investigation where a consumer report is required or would be helpful and it cannot be legally obtained without the consumer's written permission (see paragraphs (b) and (c) of this section), the agent should request the individual concerned to execute a written release if it would not jeopardize the security of the investigation. A release should also be requested when a consumer reporting agency which could legally release the information refuses to do so without a court order or written permission. If agents can legally request the consumer report (see paragraphs (b) and (c) of this section), they should do so, and should present the written permission only if consumer reporting agencies refuse to release information without it. Individuals must be advised that signing the release is voluntary on their part. Attachment 1 of this part is a sample format for obtaining written permission applicable to consumer reporting agencies. Local reproduction of the format as a form is not authorized.

(b) *Employment Purposes.* Under the Act, a consumer report is used for "employment purposes" when it is used for the "purpose of evaluating a consumer for employment, promotion, reassignment, or retention as an employee" (Section 1681a(h)). It is AFOSI policy that extremely few AFOSI investigations are conducted for employment purposes. Specifically, investigations of AFOSI contacts are not for employment purposes. Investigations in which it is believed that the only action contemplated is a board hearing on the subject's retainability in the Air Force will not be considered as being conducted for "employment purposes," unless command provides a positive written showing to this effect.

(c) *Eligibility for a License or Other Benefit.* The Act does not define a "license or other benefit granted by a governmental instrumentality," but early in the administration of the Act it was determined that security clearances are a "license." Personnel Security Investigations (PSI) are conducted to determine eligibility for a security clearance, so it is permissible to re-

quest consumer reports on the subjects of such AFOSI investigations or reciprocal PSI conducted by AFOSI for other agencies. Case types 184, 185 and 186 are in the nature of a PSI, in that the results of the investigation are submitted to a board which determines the subject's continuing eligibility for a security clearance. The results of such an investigation may also be used to determine the subject's retainability as an employee. During the course of such investigations, the allegations are sometimes found to be more serious than originally alleged and the investigation is converted to a different case type. When this happens, consumer reports cannot be requested, because the primary purpose of the investigation has become the gathering of evidence for use in a possible prosecution rather than a determination of security clearance eligibility or employment retainability. Consumer reports may not be requested on the dependents involved in parent dependency investigations under case type 561 because they are not the applicants for the benefit.

§ 955.6 Other information available to AFOSI from consumer reporting agencies.

In addition to the release of consumer reports under the circumstances outlined in § 955.5 a consumer reporting agency can release to AFOSI information on its own dealings with the consumer (see § 955.4) identifying data on consumers, and credit reports on businesses.

(a) *Identifying Data.* Section 1681f of the Fair Credit Reporting Act specifically authorizes consumer reporting agencies to release to any government agency a consumer's name, address, former addresses, places of employment, and former places of employment. There are no restrictions on the release of this identifying data to AFOSI.

(b) *Credit Reports on Businesses.* Any type of credit report, including investigative reports, on any kind of business may be released without restriction. The term "business" includes a proprietorship, partnership, corporation, trust, estate, cooperative, association, or other entity. It includes persons who are in business by themselves, but the report would be limited to their business transactions.

§ 955.7 Headquarters evaluation.

If, during the course of an investigation, a question arises concerning the propriety of requesting a consumer report, a summary of the information should be provided the appropriate headquarters directorate. Subsequent to evaluation of the circumstances, the affected directorate will approve or disapprove the conducting of the lead.

§ 955.8 Contracts with credit bureaus.

The number of investigations in which obtaining credit bureau reports is desirable and permissible will usually not be great enough to warrant entering into contracts with credit bureaus. However, if the credit bureau refuses to release any information without a contract and the district commander determines that there will probably be a sufficient number of AFOSI requests under the contract to justify the expense, a contract may be signed. Before a contract may be signed, it must be sent to HQ AFOSI/XPM for coordination with AF/JAG and HQ AFOSI/AC. AFOSIR 177-3 contains provisions for the maintenance of credit bureau contracts.

§ 955.9 Penalties.

Since the Fair Credit Reporting Act provides stiff penalties for consumer reporting agencies which violate the law, such agencies may be reluctant to release any information to an investigative agency such as AFOSI. AFOSI has no means to force the release of information, so we must rely on liaison. The Act also provides that "any person who knowingly and willfully obtains information on a consumer from a consumer reporting agency under false pretenses shall be fined not more than $5,000 or imprisoned not more than one year, or both." If the consumer has given his or her written permission, there is no need to explain the use that will be made of the consumer report. If, after a consumer has refused permission, an attempt is made to get a consumer report without the consumer's permis-

sion, the agent must be prepared to explain the legality of the request; for example, that the report will be used to determine the consumer's eligibility for a Government license or benefit as authorized by Section 1681b(3)D of the Act. Agents must never misrepresent the purpose for which the consumer report will be used. If requested by the agency, agents are authorized to execute a written statement to the effect that the consumer report will be used for official purposes and that AFOSI is authorized to receive it under the provisions of the Fair Credit Reporting Act. If the agent wants only identifying data on the consumer, there is no need to explain the intended use of the information to the consumer reporting agency.

Subpart B—The Right to Financial Privacy Act of 1978

§ 955.10 Purpose.

The main purpose of this law is to ensure that, except under certain well-defined circumstances and limitations, no Government agent or organization may obtain information contained in the financial records of any customer of any financial institution within the U.S. or its territories, unless by the customer's own consent, pursuant to a judicial or administrative subpoena or warrant, or in response to a formal written request meeting the requirements set forth below.

§ 955.11 Definitions.

(a) A "financial institution" includes primarily any office of a bank, savings bank, loan company, trust company, savings and loan company, credit union, or consumer finance institution.

(b) A "financial record" means an original record, a copy thereof, or information known to have been derived from any record held by a financial institution pertaining to a customer's relationship with the financial institution.

§ 955.12 General rule.

No financial institution may provide to any Government authority access to or copies of any information contained in the financial record of any customer except as set forth in § 955.13. Further, no such information may be released to any Government authority under procedures authorized by this law until the Government authority certifies in writing to the financial institution that it has complied with the applicable provisions of this law.

§ 955.13 Exceptions to the general rule.

(a) The financial institution may, on its own volition, release information to a Government authority for purposes of its own interests, such as to report possible crimes, to protect its own security or financial interest, such as in a legal proceeding, or in matters in which it may be assisting a customer.

(b) The financial institution may disclose any financial records or information which is not identified with or identifiable as being derived from the financial records of any particular customer.

(c) The financial institution may disclose information to supervisory or regulatory agencies of the institution or when disclosure of information is required by Federal law.

(d) The financial institution may disclose financial information pursuant to a request from the U.S. Secret Service for the purpose of conducting its protective functions or to a Government authority authorized to conduct foreign positive intelligence or foreign counterintelligence activities for the purpose of conducting such activities (see § 955.20). In any case in which a request for access is made for these purposes, the financial institution is specifically prohibited from advising the customer that a Government authority has sought or obtained access to a customer's financial records.

(e) A financial institution may disclose financial information upon request to a Government authority if delay in granting access would create imminent danger of:

(1) Physical injury to any person.

(2) Serious property damage.

(3) Flight to avoid prosecution.

§ 955.14 Authorized procedures.

(a) *Customer Consent.* A customer may authorize a financial institution to disclose personal financial information by furnishing to the institution a signed and dated statement which:

(1) Authorizes the disclosure for a specified period of time not to exceed three months.

(2) States that the customer may revoke such authorization at any time before the disclosure is made.

(3) Identifies the financial records which are authorized to be disclosed.

(4) Specifies the purposes for which, and the Government authority to which, such records may be disclosed.

(5) States the customer's rights under the law.

(b) *Judicial Subpoena, Administrative Subpoena and Summons.* A financial institution may disclose financial records to a Government authority pursuant to a judicial subpoena, administrative subpoena, or summons if:

(1) There is reason to believe that the records sought are relevant to a legitimate law enforcement inquiry.

(2) A copy of the subpoena or summons is given to or mailed to the customer, and the customer is notified of the nature of the inquiry and of actions the customer may take if he or she objects to the disclosure.

(3) Ten days since service or 14 days since mailing to the customer of the above notice have elapsed and the customer has not challenged the disclosure.

(c) *Search Warrant.* A financial institution may disclose financial information relating to a customer pursuant to the serving by a Government authority of a Federal search warrant. In such cases, within 90 days after service the Government authority must mail a copy of the warrant and notice as to by whom, when, and for what purpose it was served, to the customer. However, where appropriate, a Government authority may request any Federal court to delay this required notice procedure for up to 180 days.

(d) *Formal Written Request.* A Government authority may request financial records pursuant to a formal written request to the financial institution if:

(1) No administrative summons or subpoena authority appears reasonably available.

(2) The request is authorized by regulations of the requesting authority.

(3) There is a reason to believe that the records sought are relevant to a legitimate law enforcement inquiry.

(4) A copy of the request is given or mailed to the customer and the customer is notified of the nature of the inquiry and of the actions the customer may take if he or she objects to the disclosure.

(5) Ten days since presentation or 14 days since mailing to the customer of the above notice have elapsed and the customer has not challenged the disclosure.

§ 955.15 Delay of notice.

In any situation listed in § 955.14 which requires that notice of access to the financial record of any customer by a Government authority be given to the customer in writing, the Government authority may apply to any cognizant Federal court for a delay of 90 days in giving this notice if:

(a) The investigation involved is within the legal jurisdiction of the Government authority seeking the delay.

(b) The records are being sought in connection with a legitimate law enforcement inquiry.

(c) There is reason to believe that giving notice without delay will result in:

(1) Endangering the life or physical safety of any person.

(2) Flight from prosecution.

(3) Destruction of or tampering with evidence.

(4) Intimidation of potential witnesses.

(5) Otherwise seriously jeopardizing or delaying an investigation or other physical proceeding.

§ 955.16 Customer challenge provisions.

Within ten days of receipt or 14 days of mailing of any notice to a customer that a Government authority is seeking access to the customer's financial records held by any certain financial institution, the customer may request court action to prevent the access

from being granted. The Government authority may respond to this challenge, and access will be decided through the Federal court system.

§ 955.17 Transfer of financial information.

Financial information obtained under these procedures may not be transferred to another agency or department without a certification in writing by the transferring agency that there is reason to believe that the records are relevant to a legitimate law enforcement investigation which is within the jurisdiction of the receiving agency. In cases of transfer, the customer must be notified within 14 days of the transfer, unless a court-ordered delay in notice has been obtained.

§ 955.18 Reporting requirements.

In April of each year, each Government authority which requests access to the financial records of any customers from any financial institution under the procedures of this law must make a report to the appropriate committees of the Congress. This report must include the number of requests that authority made during the past calendar year under each procedure set forth.

Subpart C—AFOSI Procedures for Requesting and Obtaining Information from Banking Institutions

§ 955.19 General applicability.

The provisions of the Right to Financial Privacy Act of 1978 and of this part do not govern obtaining access to financial records maintained by military banking contractors located outside the U.S., the District of Columbia, Guam, American Samoa, or the Virgin Islands. Access to financial records maintained by military banking contractors in overseas areas should be obtained through established liaison procedures.

§ 955.20 Obtaining information in foreign counterintelligence investigations.

(a) In any instance in which it is necessary for AFOSI to request financial information from any U.S. financial institution in connection with a legitimate foreign counterintelligence investigation, the request will include the following:

(1) A letter request for access to the records sought, signed by the District Commander, addressed to the financial institution, specifying the individual on whom the records are sought, the type of records sought, and a statement to the effect that the records are reasonably believed to be relevant to a legitimate foreign counterintelligence investigation which is within the mission of AFOSI to perform; and a notification to the institution that section 3414(3) of 12 U.S.C. 3401 et seq. prohibits disclosure to any person by the institution, its agents, or employees that these financial records have been sought or obtained.

(2) A certificate of compliance, signed by the District Commander, in the format as shown in Atch 2.

(b) In each case in which this procedure is used, HQ AFOSI/XP will be notified by the district involved. HQ AFOSI/XP will maintain by date, location, and case file number a record of each instance in which this procedure is used.

§ 955.21 Obtaining information in emergency situations.

(a) In any situation in which AFOSI requests information under emergency circumstances (see § 955.13(e)) the request may be made orally or in writing explaining the nature of the emergency circumstance under which it is being made.

(b) The request must be accompanied by a certificate of compliance, as shown in Attachment 2 of this part.

(c) Within five days after access is obtained under this procedure, a signed, sworn statement, prepared by the district commander, will be submitted for filing with the appropriate federal court having jurisdiction over the location of the record sought, setting forth the grounds for the emergency access. In such instances, the assistance of the local SJA will be requested in preparing and filing this statement.

(d) As soon as possible after access has been obtained, a letter, signed by the district commander, together with a copy of the request made by AFOSI

99-112 O—82——43

to the financial institution, will be given to the customer or mailed by registered or certified mail to the last known address of the customer. (See Attachment 3 of this part for sample format). This letter will advise the customer of the access, when access was given, by whom it was obtained, and the grounds on which the access was granted on an emergency basis. This notice may be delayed only through the procedures outlined in § 955.15 and as set forth in § 955.24.

(e) In each case in which this procedure is used, HQ AFOSI/XP will be notified by the district involved. HQ AFOSI/XP will maintain a record by date, location, and case file number of each instance in which this procedure is used.

§ 955.22 Obtaining information with the customer's consent.

(a) Whenever feasible, AFOSI will request access to the financial records of an individual with the specific authorization in writing of the individual. A sample copy of this consent statement is shown in Attachment 4 of this part.

(b) This consent statement will be submitted to the financial institution concerned along with a certificate of compliance, as shown in Attachment 2 of this part.

(c) A copy of the customer's consent statement shall be made a part of the case file regarding the investigation and filed separately in the AFOSI Form 39a.

(d) In each case where this procedure is used, the district involved will notify HQ AFOSI/XP. HQ AFOSI/XP will maintain a record by date, location, and case file of each instance in which this procedure is used.

§ 955.23 Obtaining information by administrative subpoena and summons, or judicial subpoena.

These procedures are not available for use by AFOSI. No DoD component or agency has authority to issue an administrative summons or subponea for access to financial records. A judicial subponea is issued only in connection with pending judicial proceedings and would therefore not be initiated by AFOSI.

§ 955.24 Obtaining information by search warrant.

(a) AFOSI has authority through its civilian agents when they are enforcing the UCMJ to obtain and execute search warrants pursuant to the Federal Rules of Criminal Procedure. Search warrants signed by military commanders or military judges will not be used in the U.S. or its territories to gain access to financial records. This authority may be used only in investigations of military suspects. Coordinate with the local Staff Judge Advocate in obtaining a warrant in these cases.

(b) In any instance where access by search warrant issued to an AFOSI civilian agent is obtained, within 90 days thereafter, a copy of the warrant, together with a notice of the access obtained, will be mailed to the customer's last known address. (See Attachment 5 of this part for format). This notice may be delayed only through the procedures outlined in § 955.15, and as set forth in § 955.26.

(c) In each case in which this procedure is used, the district involved will notify HQ AFOSI/XP. HQ AFOSI/XP will maintain a record by date, location and case file number of each instance in which this procedure is used.

§ 955.25 Obtaining information by formal written request.

(a) AFOSI may obtain access to the financial records of an individual pursuant to a formal written request to the financial institution involved under the following circumstances:

(1) The customer has declined to consent to the disclosure of his or her records, or it is determined that to seek consent from the customer would compromise or harmfully delay a legitimate law enforcement inquiry.

(2) The request adheres to the requirements as set forth in this paragraph and is signed by a district commander.

(3) There is reason to believe that the records sought are relevant to a legitimate AFOSI law enforcement inquiry.

(4) A notice to the individual as set forth in Attachment 6 of this part and a copy of the formal written request

have been given to the individual at least 14 days before or mailed to the customer's last known address at least 18 days before the date on which access is sought from the financial institution; or a delay in the notice to the customer requirements has been obtained in accordance with §§ 955.15 and 955.26. Coordinate with the local Staff Judge Advocate for assistance in providing the required accompanying motion papers and sworn statement.

(b) The formal written request will be in the form of a letter, signed by the district commander concerned and must contain the following:

(1) A statement that the request is made pursuant to the Right to Financial Privacy Act of 1978.

(2) A description of the specific records to be examined.

(3) A statement that access is sought in connection with a legitimate law enforcement inquiry.

(4) A description of the nature of the inquiry (see Attachment 7 of this part for sample format).

(5) A designation that the district commander who signed the notice to the customer letter is the proper recipient of any challenge by the customer to the access requested.

(c) No access will be granted by the bank until after 14 days from service or 18 days from mailing a copy of the formal written request to the customer have elapsed.

(d) Before access will be given, a certificate of compliance, as shown in Attachment 2 of this part, must be furnished to the financial institution. This statement may not be issued until the customer notice requirements, or a court-ordered delay thereof, have been fulfilled and no customer challenge has been received within the stated waiting periods.

(e) A formal written request may be issued for basic identifying account information only which is relevant to a legitimate law enforcement inquiry. Such a request, in the format as shown in Attachment 8 of this part, may be issued to a financial institution for any or all of the following identifying data: Name, address, account number, and type of account of any customer or ascertainable group of customers associated with a financial institution or class of financial transactions. This type of request will not require customer notice, challenge, or transfer of information procedures. Notification will be made to HQ AFOSI/XP by the district concerned in each instance in which this type of request is made. HQ AFOSI/XP will maintain a record by date, location, and file number of each instance in which this procedure is used.

(f) In each case in which any formal written request procedure is used, HQ AFOSI/XP will be notified by the district involved. HQ AFOSI/XP will maintain a record by date, location, and case file number of each instance in which this procedure is used.

§ 955.26 Delay in notice to the customer applications.

(a) In any case where there is reasonable cause to delay notice to the customer that a customer's financial records have been disclosed (see § 955.15), the matter will be coordinated with the local Staff Judge Advocate (SJA). The SJA will be requested to assist in the composing and filing of a motion for delay, as authorized, in the nearest Federal court. If the delay is granted, copies of all appropriate documents will be retained in the 1A serial of the case file. Upon expiration of the authorized time period of delay, and many extensions requested and granted, notice to the customer requirements will be completed using the format as shown in Attachment 9 or 10 of this part, as appropriate.

(b) In any case in which a delay in notice to the customer is applied for, the originating district will notify HQ AFOSI/XP of the application. HQ AFOSI/XP will maintain a record by date, location, and case file number of each instance in which this procedure is used.

§ 955.27 Customer challenges.

In any instance in which a customer properly files a challenge to any of the procedures under this part, the matter will be coordinated with the local SJA. Assistance from the SJA will be sought in making an appropriate reply to the challenge. In any such case, HQ AFOSI/XP will be notified of the

challenge and will maintain a record of all challenge and the resolutions thereof.

§ 955.28 Transfer of financial information to other agencies.

(a) Any financial record obtained by AFOSI under the provisions of this part shall be marked with the following: "This record was obtained pursuant to the Right to Financial Privacy Act of 1978, 12 U.S.C. 4301 et seq., and may not be transferred to another federal agency or department without prior compliance with the transferring requirements of 12 U.S.C. 3412."

(b) Financial information obtained as a result of these procedures may be transferred upon request to another agency or department. Before any such transfer to any agency outside the DoD may be made, the appropriate district commander or headquarters director must certify in writing that there is reason to believe the record are relevant to the legitimate law enforcement inquiry within the jurisdiction of the recipient agency or department. A copy of this certificate will be maintained with the AFOSI copy of the released records.

(c) Whenever AFOSI transfers any financial information pursuant to a request of another agency or department, as outlined above, unless a delay in notice has been applied for and granted to the receiving agency or department or AFOSI has obtained a delay in notice pursuant to procedures set forth herein, notice of the transfer must be mailed by AFOSI to the customer within 14 days from the date the transfer took place. A sample format for this notice is shown in Attachment 11 of this part.

(d) If a request for release of information is from a federal agency authorized to conduct foreign intelligence or foreign counterintelligence as defined in E.O. 12036, for purposes of conducting its protective functions, such release may be made without notifying the customer.

(e) In each case where a record is transferred, HQ AFOSI/XP will be notified by the district or headquarters element involved. HQ AFOSI/XP will maintain a record by date, location, and case file number of each instance in which this procedure was used.

§ 955.29 Refusal to comply by banking institutions.

In the event any financial institution refuses to comply with a request for financial data information which is made pursuant to any procedure outlined in this part, the matter should be referred to HQ AFOSI/XP for resolution.

§ 955.30 Retention of documents.

All documents relating to any requests for access made under the procedures of this part, including certificates of compliance, consents, and notices to a customer will be retained in the 1A serial as a permament part of the case file.

§ 955.31 Reporting requirements.

(a) No later than February 10 of each year, HQ AFOSI/XP will prepare an annual tabulation for the preceding calendar year which will include:

(1) The number of requests for access to financial institutions, specifying the types of access and any other information deemed relevant or useful.

(2) The number of transfers to other agencies outside the DoD of information obtained under procedures outlined in this part.

(3) The number of customer challenges to the transfer of information and whether they were successful.

(4) The number of individual customer challenges to access and whether they were successful.

(5) The number of applications for delays of notice to the customer, the number granted, and the names of officials requesting such delays.

(6) The number of delay of notice extensions sought and the number granted.

(7) The number of refusals by financial institutions to grant access under each procedure used by AFOSI.

(b) This report will be submitted to the Defense Privacy Board, Office of the Deputy Assistant Secretary of Defense (Administration), no later than February 15 of each calendar year.

ATTACHMENT 1—RELEASE AUTHORITY FOR CONSUMER REPORTING AGENCY

(Date) ————————————————
(Place) ————————————————

In connection with an official investigation, I, ———————— hereby authorize and request any and all credit bureaus or other consumer reporting agencies* providing consumer reports or any business establishment having data concerning business and other transactions to furnish them to any Special Agent of the Air Force Office of Special Investigations who presents this authorization. This authorization specifically includes authority to release for examination and reproduction, without legal process, all pertinent records concerning me.

Special Agent ———————— has advised my of the provisions of the Privacy Act of 1974.**

Witness:

————————————————————

Special Agent, Air Force Office of Special Investigations, United States Air Force.

————————————————————

(Signature)

————————————————————

(Address)

ATTACHMENT 2—CERTIFICATE OF COMPLIANCE WITH THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978

(Official Letterhead)

(Date)

To: (Name and address of financial institution)

From: (Name and address of AFOSI unit)

Subject: Certificate of Compliance with the Right to Financial Privacy Act of 1978

I certify, pursuant to section 3403(b) of the Right to Financial Privacy Act of 1978, 12 U.S.C. 3401 et seq., that the applicable provisions of that statute have been complied with as to the (customer's consent, search warrent or judicial subpoena, formal written request, emergency access, as applicable) presented on (date), for the following financial records of (customer's name):

(Describe the specific records)

(Signature)

(Name and Title of official)

(AFOSI address)

(Telephone)

Pursuant to section 3417(c) of the Right to Financial Privacy Act of 1978, good faith reliance upon this certificate relieves your institution and its employees and agents of any possible liability to the customer in connection with the disclosure of these financial records.

ATTACHMENT 3—SAMPLE NOTICE TO THE CUSTOMER OF EMERGENCY ACCESS

(Official Letterhead)

(Date)

To: (Name and address of individual)

From: (Name and address of AFOSI unit)

Subject: Emergency Access to Financial Records under the Right to Financial Privacy Act of 1978

Records concerning your transactions held by the financial institution named in the enclosed request were obtained by the Air Force Office of Special Investigations under the Right to Financial Privacy Act of 1978 on (date) for the following purpose: (State with reasonable specificity the nature of the law enforcement inquiry). Emergency access to such records was obtained on the grounds that (state grounds).

(Signature)

(Name and Title of official)

(AFOSI address)

(Telephone)

ATTACHMENT 4—CUSTOMER CONSENT FOR BANKING INSTITUTIONS

Pursuant to section 3404(a) of the Right to Financial Privacy Act of 1978, I, (Name of Customer), having read the explanation of my rights on the reverse side, hereby authorize the (Name and address of financial institution) to disclose these financial records: (List the particular financial records) to the Air Force Office of Special Investigations for the following purpose(s): (Specify the purpose(s)).

I understand that this authorization may be revoked by me in writing at any time before my records, as described above, are disclosed, and that this authorization is valid for no more than three months from the date of my signature.

Date: ————————————————

Signature: ————————————————

(Typed name)

(Address of customer)

Statement of Customer Rights Under the Right to Financial Privacy Act of 1978

Federal law protects the privacy of your financial records. Before banks, savings and

*Specific name(s) of institutions or business may be set out if appropriate.

**Include this statement when requesting this authority in connection with a parent dependency investigation. In accordance with the Privacy Act of 1974, the dependent must be advised that he or she need not authorize the release of any financial data and cannot be compelled to do so; however, failure to do so could result in dependency benefits being terminated.

loan associations, credit unions, credit card issuers, or other financial institutions may give financial information about you to a federal agency, certain procedures must be followed.

Consent to Financial Records

You may be asked to consent to the financial institution making your financial records available to the Government. You may withhold your consent, and your consent is not required as a condition of doing business with any financial institution. If you give your consent, it can be revoked in writing at any time before your records are disclosed. Furthermore, any consent you give is effective for only three months, and your financial institution must keep a record of the instances in which it discloses your financial information.

Without Your Consent

Without your consent, a federal agency that wants to see your financial records may do so ordinarily only by means of a lawful subpoena, summons, formal written request, or search warrant for that purpose. Generally, the federal agency must give you advance notice of its request for your records explaining why the information is being sought and telling you how to object in court. The federal agency must also send you copies of court documents to be prepared by you with instructions for filling them out. While these procedures will be kept as simple as possible, you may want to consult an attorney before making a challenge to a federal agency's request.

Exceptions

In some circumstances, a federal agency may obtain financial information about you without advance notice or your consent. In most of these cases, the federal agency will be required to go to court for permission to obtain your records without giving you notice beforehand. In these instances, the court will make the Government show that its investigation and request for your records are proper. When the reason for the delay of notice no longer exists, you will usually be notified that your records were obtained.

Transfer of Information

Generally, a federal agency that obtains your financial records is prohibited from transferring them to another federal agency unless it certifies in writing that the transfer is proper and sends a notice to you that your records have been sent to another agency.

Penalties

If the federal agency or financial institution violates the Right to Financial Privacy Act, you may sue for damages or seek compliance with the law. If you win, you may be repaid your attorney's fee and costs.

Additional Information

If you have any questions about your rights under this law, or about how to consent to release your financial records, please call the official whose name and telephone number appears below:

_____

(Name, title, telephone number)

_____

(Component activity, address)

Attachment 5—Sample Notice to the Customer of Access by Search Warrant

(Official Letterhead)
(Date)

To: (Name and address of individual)
From: (Name and address of AFOSI unit)
Subject: Access by Search Warrant to Financial Records under the Right to Financial Privacy Act of 1978

Records or information concerning your transactions held by the financial institution named in the enclosed search warrant were obtained by the Air Force Office of Special Investigations on (date) for the following purpose: (State purpose). You may have rights under the Right to Financial Privacy Act of 1978.

(Signature)
(Name and Title of official)
(AFOSI address)
(Telephone)

Attachment 6—Sample Notice to Customer of Access by Formal Written Request

(Official Letterhead)
(Date)

(Name of individual)
(Address of individual)

Dear (Individual's name): Information or records concerning your transactions held by the financial institution named in the attached request are being sought by the Air Force Office of Special Investigations in accordance with the right to Financial Privacy Act of 1978, Title 12, United States Code, Section 3401 et seq., and AFOSI Regulation 124-49, for the following purpose(s): (List purpose(s)).

If you desire that such records or information are not made available, you must:

1. Fill out the accompanying motion paper and sworn statement or write one of your

own, stating that you are the customer whose records are being requested by the Government and either giving the reasons you believe that the records are not relevant to the legitimate law enforcement inquiry stated in this notice or any other legal basis for objecting to the release of the records.

2. File the motion and statement by mailing or delivering them to the clerk of any one of the following United States District Courts: (List applicable courts).

3. Serve the Government authority requesting the records by mailing or delivering a copy of your motion and statement to: (List appropriate AFOSI official and address).

4. Be prepared to come to court and present your position in further detail.

5. You do not need to have a lawyer, although you may wish to employ one to represent you and protect your rights.

If you do not follow the above procedures, upon the expiration of ten days from the date of personal service or 14 days from the date of mailing of this notice, the records or information requested therein may be made available. These records may be transferred to other Government authorities for legitimate law enforcement inquiries, in which event you will be notified after the transfer.

3 Attachments:
1. Copy of Request.
2. Motion papers.
3. Sworn statement.

(Signature)
(Name and Title of official)
(AFOSI address)
(Telephone)

Attachment 7—Sample of Formal Written Request

(Official Letterhead)

(Date)

To: (Name and address of financial institution)
From: (Name and address of AFOSI unit)
Subject: Formal Written Request for Financial Records of (customer's name or any other appropriate identification)

In connection with a legitimate law enforcement inquiry and pursuant to section 3402(5) and section 3408 of the Right to Financial Privacy Act of 1978, 12 U.S.C. 3401 et seq., and AFOSI Regulation 124-49, you are requested to provide the following account information pertaining to the subject: (Describe the specific records to be examined)

The Air Force Office of Special Investigations is without authority to issue an administrative summons or subpoena for access to these financial records which are required for (Describe the nature or purpose of the inquiry).

A copy of this request was (personally served upon or mailed to) the subject on (date) who has (10 or 14) days in which to challenge this request by filing an application in an appropriate United States district court if the subject desires to do so.

Upon expiration of the above mentioned time period and absent any filing or challenge by the subject, you will be furnished a certification certifying in writing that the applicable provisions of the Act have been complied with prior to obtaining the requested records. Upon your receipt of a Certificate of Compliance with the Right to Financial Privacy Act of 1978, you will be relieved of any possible liability to the subject in connection with the disclosure of the requested financial records.

(Signature)
(Name and Title of official)
(AFOSI address)
(Telephone)

Attachment 8—Sample Format for Requesting Basic Identifying Account Data

(Official Letterhead)

(Date)

To: (Name and address of financial institution)
From: (Name and address of AFOSI unit)
Subject: Request for Basic Identifying Account Data concerning (Customer's name or any other appropriate identification)

In connection with a legitimate law enforcement inquiry and pursuant to section 3413(g) of the Right to Financial Privacy Act of 1978, 12 U.S.C. 3401 et seq., you are requested to provide the following account information: (Name, address, account number, and type of account of any customer or ascertainable group of customers associated with a certain class of financial transactions).

I hereby certify, pursuant to section 3403(b) of the Right to Financial Privacy Act of 1978, that the provisions of the Act have been complied with as to this request for account information.

(Signature)
(Name and Title of official)
(AFOSI address)
(Telephone)

Under section 3417(c) of the Act, good faith reliance upon this certification relieves your institution and its employees and agents of any possible liability to the subject in connection with the disclosure of the requested financial records.

ATTACHMENT 9—SAMPLE NOTICE TO CUSTOMER OF DELAY OF NOTICE (SEARCH WARRANTS)

(Official Letterhead)
(Date)

To: (Name and address of individual)
From: (Name and address of AFOSI unit)
Subject: Delay of Notice of Access by Search Warrant to Financial Records under the Right to Financial Privacy Act of 1978

Records or information concerning your transactions held by the financial institution named in the enclosed search warrant were obtained by the Air Force Office of Special Investigations on (date). Notification was delayed beyond the statutory 90-day delay period pursuant to a determination by the court that such notice would seriously jeopardize an investigation concerning (state with reasonable specificity). You may have rights under the Right to Financial Privacy Act of 1978.

(Signature)
(Name and Title of official)
(AFOSI address)
(Telephone)

ATTACHMENT 10—SAMPLE NOTICE TO CUSTOMER OF DELAY OF NOTICE (FORMAL WRITTEN REQUEST)

(Official Letterhead)
(Date)

To: (Name and address of individual)
From: (Name and address of AFOSI unit)
Subject: Delay of Notice of Access by Formal Written Request to Financial Records under the Right to Financial Privacy Act of 1978

Records or information concerning your transactions which are held by the financial institution named in the enclosed process or request were supplied to or requested by the Government authority named in the process or request on (date). Notification was withheld pursuant to a determination by the (title of the court so ordering) under the Right to Financial Privacy Act of 1978 that such notice might (state reason). The purpose of the investigation or official proceeding was (state purpose with reasonable specificity).

(Signature)
(Name and Title of official)
(AFOSI address)
(Telephone)

ATTACHMENT 11—SAMPLE NOTICE TO CUSTOMER OF TRANSFERRED INFORMATION

(Official Letterhead)
(Date)

To: (Name and address of individual)
From: (Name and address of AFOSI unit)
Subject: Notice of Transfer of Financial Records Obtained under the Right to Financial Privacy Act of 1978

Copies of or information contained in your financial records lawfully in the possession of the Air Force Office of Special Investigations have been furnished to (name of agency) pursuant to the Right to Financial Privacy Act of 1978 for the following purposes: (state reason). If you believe that this transfer has not been made to further a legitimate law enforcement inquiry, you may have legal rights under the Right to Financial Privacy Act of 1978 or the Privacy Act of 1974.

(Signature)
(Name and Title of official)
(AFOSI address)
(Telephone)

SUBCHAPTER P—INTELLIGENCE

PART 959—RESTRICTIONS ON FOREIGN INTELLIGENCE ACTIVITIES

Sec.

959.1 Purpose.
959.2 Restrictions on Intelligence activities.
959.3 Explanation of terms.
959.4 Restriction on collection.
959.5 Dissemination and storage.
959.6 Restrictions on experimentation.
959.7 Assistance to law enforcement authorities.
959.8 Assignment of personnel.
959.9 Prohibition of assassination.
959.10 Approval procedures.

AUTHORITY: Sec. 8012, 70A Stat. 488; (10 U.S.C. 8012).

SOURCE: 41 FR 30009, July 21, 1976, unless otherwise noted.

§ 959.1 Purpose.

This part establishes restrictions on foreign intelligence collection and surveillance activities. It applies to all Air Force foreign intelligence activities. Unless otherwise specified, this part applies to all activities both inside and outside the United States. If existing guidelines conflict, use this part as the basis for authority. This part implements Executive Order 11905, Section 5, February 18, 1976.

§ 959.2 Restrictions on Intelligence activities.

Information about the capabilities, intentions, and activities of other governments is essential to informed decisionmaking in the field of national defense and foreign relations. The measures employed to acquire such information should be responsive to the legitimate needs of our Government, and must be conducted in a manner which preserves and respects our established concepts of privacy and our civil liberties.

(a) All Air Force elements must ensure the proper balancing of these interests is maintained.

(b) This part does not authorize any activity not previously authorized, and does not provide exemption from any restrictions otherwise applicable.

§ 959.3 Explanation of terms.

For the purpose of this part, the following terms are defined:

(a) Collection. Any one or more of the gathering, analysis, dissemination or storage of nonpublicly available information without the informed express consent of the subject of the information.

(b) Counterintelligence. Information concerning the protection of foreign intelligence or of national security information and its collection from detection or disclosure.

(c) Electronic Surveillance. Acquisition of a nonpublic communication by electronic means, without the consent of a person who is a party to, or, in the case of a nonelectronic communication, visibly present at, the comunication.

(d) Employee. A person employed by, assigned or detailed to, or acting for an Air Force or other United States foreign intelligence agency.

(e) Foreign Intelligence. Information concerning the capabilities, intentions, and activities of any foreign power, or of any non-United States person, whether within or outside the United States, or concerning areas outside the United States.

(f) Foreign Intelligence Agency. The Central Intelligence Agency (CIA), National Security Agency (NSA); and Defense Intelligence Agency (DIA); and further includes any other department or agency of the United States or component thereof while it is engaged in the collection of foreign intelligence or counterintelligence, but shall not include any such department, agency or component thereof to the extent that it is engaged in its authorized civil or criminal law enforcement functions.

(g) National Security Information. Official information and material which, because it bears directly on the effectiveness of our national defense and the conduct of our foreign relations, must be subject to some constraints for the security of our nation and the safety of our people and our Allies. To protect against actions hostile to the United States, of both an overt and covert nature, such informa-

tion and material may be given only limited dissemination.

(h) Physical Surveillance. Continuing visual observation by any means; or acquisition of a nonpublic communication by a person not a party thereto or visibly present threat through any means which does not involve electronic surveillance.

(i) United States Person. United States citizens, aliens admitted to the United States for permanent residence, and corporations or other organizations incorporated or organized in the United States.

§ 959.4 Restriction on collection.

Air Force foreign intelligence agencies, units, and personnel must not engage in any of the following activities. (See § 959.10 for approval procedures for certain permitted activities.)

(a) Physical surveillance directed against a United States person, unless it is an approved surveillance directed against any of the following:

(1) A present or former employee of such agency, its present or former contractors or their present or former employees, for the purpose of protecting foreign intelligence or counterintelligence sources or methods or national security information from unauthorized disclosure; or

(2) A United States person who is in contact with either such a present or former contractor or employee or with a non-United States person who is the subject of a foreign intelligence or counterintelligence inquiry, but only to the extent necessary to identify such United States person; or

(3) A United States person outside the United States who is reasonably believed to be acting on behalf of a foreign power or engaging in international terrorist or narcotics activities or activities threatening the national security.

(b) Electronic surveillance to intercept a communication which is made from, or is intended by the sender to be received in, the United States, or directed against United States persons abroad, except lawful electronic surveillance under procedures approved by the Attorney General. The communications security activities of the United States Air Force Security Service (USAFSS) are not included within this prohibition to the extent that solely DOD assets and personnel are monitored and the information so obtained is used solely to maintain communications security.

(c) Unconsented physical searches within the United States; or unconsented physical searches directed against United States persons abroad, except lawful searches under procedures approved by the Attorney General.

(d) Opening of mail or examination of envelopes of mail in United States postal channels except in accordance with applicable statutes and regulations.

(e) Examination of Federal tax returns or tax information except in accordance with applicable statutes and regulations.

(f) Infiltration or undisclosed participation within the United States in any organization for the purpose of reporting on or influencing its activities or members; except such infiltration or participation with respect to an organization composed primarily of non-United States persons which is reasonably believed to be acting on behalf of a foreign power.

(g) Collection of information, however acquired, concerning the domestic activities of United States persons except:

(1) Information concerning corporations or other commercial organizations which constitutes foreign intelligence or counterintelligence.

(2) Information concerning present or former employees, present or former contractors or their present or former employees, or applicants for any such employment or contracting, necessary to protect foreign intelligence or counterintelligence sources or methods or national security information from unauthorized disclosure; and the identity of persons in contact with the foregoing or with a non-United States person who is the subject of a foreign intelligence or counterintelligence inquiry.

(3) Information concerning persons who are reasonably believed to be potential sources or contacts, but only for the purpose of determining the

suitability or credibility of such persons.

(4) Foreign intelligence or counterintelligence gathered abroad or from electronic surveillance conducted in compliance with b above; or foreign intelligence acquired from cooperating sources in the United States.

(5) Information about a United States person who is reasonably believed to be acting on behalf of a foreign power or engaging in international terrorist or narcotics activities.

(6) Information concerning persons or activities that pose a clear threat to foreign intelligence agency facilities or personnel: *Provided*, That such information is retained only within the Air Force and that proper coordination with the Federal Bureau of Investigation through the Air Force Office of Special Investigations (AFOSI) is accompanied.

§ 959.5 Dissemination and storage.

Nothing in this part shall prohibit:

(a) Lawful dissemination to the appropriate law enforcement agencies of incidentally gathered information indicating involvement in activities which may be in violation of law.

(b) Storage of information required by law to be retained.

(c) Dissemination to foreign intelligence agencies of information of the subject matter types listed in § 959.4(g).

§ 959.6 Restrictions on experimentation.

Air Force foreign intelligence agencies, units, and personnel must not engage in experimentation with drugs on human subjects, except with the informed consent in writing and witnessed by a disinterested third party, of each such human subject and in accordance with the guidelines issued by the National Commission for the Protection of Human Subjects for Biomedical and Behavioral Research.

§ 959.7 Assistance to law enforcement authorities.

(a) No Air Force foreign intelligence agency, unit, or personnel, except as expressly authorized by law, shall:

(1) Provide services, equipment, personnel or facilities to the to the Law Enforcement Assistance Administration (LEAA) or to state or local police organizations of the United States.

(2) Participate in or fund any law enforcement activity with the United States.

(b) Prohibitions in paragraph (a) of this section must not preclude:

(1) Cooperation between an Air Force foreign intelligence agency, unit, or personnel and appropriate law enforcement agencies for the purpose of protecting the personnel and facilities of the Air Force or preventing espionage or other criminal activity related to foreign intelligence or counterintelligence.

(2) Provision of specialized equipment or technical knowledge for use by any other Federal department or agency.

§ 959.8 Assignment of personnel.

Personnel and employees of an Air Force foreign intelligence agency or unit detailed elsewhere within the Federal Government shall be responsible to the host agency and shall not report to their parent agency or unit on the affairs of the host agency, except as may be directed by the latter. The head of the host agency, and any successor, shall be informed of a detailee's association with the parent agency or unit.

§ 959.9 Prohibition of assassination.

No personnel or employees of the United States Air Force shall engage in, or conspire to engage in, political assassination.

§ 959.10 Approval procedures.

(a) The approval of the Secretary or Under Secretary of the Air Force is required for Air Force foreign intelligence agencies, units or personnel to engage in any activity permitted under § 959.4 (a) and (f). In addition, activities described in § 959.4 (b) and (c) may be authorized only in accordance with procedures approved by the Attorney General.

(b) When Secretarial approval is required, it will be requested in writing in ten copies. The request will: (1) Explain the operational necessity for the proposed activity; (2) Describe the proposed activity in detail including spe-

cific times, places, persons and means; and (3) Include any other relevant information necessary to evaluate the request.

(c) The request for approval will be forwarded by endorsement through command channels, through the General Counsel of the Air Force, to the Under Secretary. In exceptionally time-sensitive cases, this may be accomplished by electronic communications.

PART 960—INTELLIGENCE OVERSIGHT

Sec.
960.1 Purpose.
960.2 Reference.
960.3 Responsibilities of the Inspector General.
960.4 Access.
960.5 Air Force Oversight Panel.

AUTHORITY: Sec. 8012, 70A Stat. 488; (10 U.S.C. 8012).

SOURCE: 41 FR 30011, July 21, 1976, unless otherwise noted.

§ 960.1 Purpose.

This part establishes within the Department of the Air Force oversight responsibilities and procedures with regard to foreign intelligence activities. This part applies to all personnel and activities of the United States Air Force.

§ 960.2 Reference.

Executive Order 11905, February 18, 1976, "United States Foreign Intelligence Activities."

§ 960.3 Responsibilities of the Inspector General.

(a) Formulates practices and procedures designed to discover and report to the Intelligence Oversight Board activities that raise questions of legality or propriety.

(b) Conducts recurring, in-depth inspections of the activities of the Office of the Assistant Chief of Staff, Intelligence, the Air Force Intelligence Service, and those USAF foreign intelligence activities not under the purview of MAJCOM or SOA Inspectors General.

(c) Reviews Inspector General (IG) reports of other intelligence activities which raise questions of illegality or propriety.

(d) Transmits to the Intelligence Oversight Board IG reports of any activities that raise questions of legality or propriety.

(e) Reports at least quarterly to the Intelligence Oversight Board on findings concerning any questionable activities.

(f) Reports to the Intelligence Oversight Board any occasion on which an inspector or any other IG staff member was directed not to report any activity to the Intelligence Oversight Board by his or her agency or department head.

(g) Coordinates with the Department of the Air Force General Counsel on all reports which raise questions of legality or propriety.

(h) Provides to the Intelligence Oversight Board information requested about foreign intelligence activities within the Air Force.

§ 960.4 Access.

IG personnel must be given access to all information necessary to perform the duties assigned by this part or by the Inspector General.

§ 960.5 Air Force Oversight Panel.

The Inspector General, the Assistant Chief of Staff, Intelligence, and the Department of the Air Force General Counsel are designated as the Air Force Intelligence Oversight Panel and will meet periodically to review the legality and propriety of Air Force foreign intelligence activities.

SUBCHAPTER Q—MEDICAL SERVICE

PART 968—POLICY FOR DRUG COMPANY REPRESENTATIVES

Sec.
968.1 Purpose.
968.2 Responsibilities.

§ 968.1 Purpose.

This part establishes policies and procedures that will accomplish the mutual objectives of the Medical Center Staff and the Drug Company Representatives.

(Sec. 8012, 70A Stat. 448; 10 U.S.C. 8012)

[41 FR 34962, Aug. 18, 1976]

§ 968.2 Responsibilities.

(a) Pharmacy Department.

(1) Furnish information and liaison between the staff and the Drug Company Representatives.

(2) Inform the representatives of any change in Medical Center policies that affect them.

(3) Accept and relay messages from the staff to the drug company representatives.

(4) Schedule pharmaceutical displays and inform the representatives of display procedures. Displays will only be conducted in the Officer's Dining Room, Wilford Hall USAF Medical Center, or in the library at Building 6612.

(5) Be the custodian of drug samples that are dispensed on prescription.

(b) Service Chiefs.

(1) Inform the Pharmacy Department of any policy or procedure that the representatives must follow while visiting their service.

(2) Inform the Pharmacy of policy or procedural infractions that the salesmen might commit.

(3) Must complete a "Drug Sample Control" letter listing the doctors that are authorized to use from his supply of samples.

(c) Drug Company Representatives.

(1) Register with the Chief, Modular Medical Clinic Pharmacy, Room 37A, Building 3, Modular Medical Clinic.

(2) Receive medical staff communication and policy change information.

(3) Check out with the Chief, Modular Medical Clinic Pharmacy when leaving the Medical Center. This may be accomplished by telephone (Extension 7209).

(4) Have limited access by appointment to the Base Dispensary.

(5) Will contact the Chief, Modular Medical Clinic Pharmacy to schedule displays.

(6) Will refrain from distributing controlled substance medications. This practice of sampling controlled substance medications in this Medical Center is prohibited.

NOTE: See Wilford Hall Medical Center Regulation 160-16, January 24, 1974.

(Sec. 8012, 70A Stat. 448; 10 U.S.C. 8012)

[41 FR 34962, Aug. 18, 1976]

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SUBCHAPTER R—[RESERVED]

SUBCHAPTER S—RECREATION

PART 983—RECREATION ACTIVITIES AND SERVICE PROGRAM

Subpart A—Policy, Mission and Personnel Authorized to Use the Recreation Center

Sec.
983.0 Purpose.
983.1 Policy.
983.2 Mission.
983.3 Personnel authorized to use the recreation center and participate in the programs.

Subpart B—Recreation Centers, Staff, and Advisory Council

983.4 Establishment and operation of recreation centers.
983.5 Recreation center staff.
983.6 Recreation activities and services advisory council.

Subpart C—Program Philosophy and Types of Activities

983.7 Program philosophy and role of the recreation center.
983.8 Programming in the recreation center.
983.9 Types of activities.

Subpart D—Funding and Operations

983.10 Funding, equipment, supplies, and services.
983.11 Facility environment.
983.12 Incidental income.

Subpart E—Restrictions

983.13 Restrictions on activities.
983.14 Bingo.

Subpart F—Administration and Personnel Policies

983.15 Recreation center administration.
983.16 Staff personnel policies.
983.17 Standards of dress and personal appearance for participants.

AUTHORITY: 10 U.S.C. 8012.

SOURCE: 37 FR 28593, Dec. 28, 1972, unless otherwise noted. Redesignated at 43 FR 1070, Jan. 6, 1978.

Subpart A—Policy, Mission and Personnel Authorized To Use the Recreation Center

§ 983.0 Purpose.

(a) This part states Air Force policy and the mission of the Air Force recreation activities and services program. It provides information on programing, activities, personnel, and funding support; and tells how to staff, administer, and operate Air Force recreation centers.

(b) Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 983.1 Policy.

All recreation activities and services sponsored by or held in an Air Force recreation center will be conducted in a manner free from discrimination to provide equal opportunity and treatment for all participants regardless of race, color, creed, sex, religion, or national origin. Accepted standards of decency, decorum, and good taste will be adhered to in any recreation program or activity conducted in the recreation center.

§ 983.2 Mission.

The recreation activities and service program, which is basically recreation center oriented, may take place in other base facilities (such as a swimming pool or picnic area) or off base (tours). It is designed to enhance the morale and efficiency of Air Force personnel through a broad range of creative, cultural, educational, social, and competitive recreation activities and services. The recreation activities and services program will be as comprehensive and balanced as local conditions permit. Priority will be given to the development of programs to meet the needs and interests of young airmen.

§ 983.3 Personnel authorized to use the recreation center and participate in the programs.

(a) The general recreation activities program and use of the recreation center is primarily for young airmen, their wives and guests.

(b) Officers, noncommissioned officers, and civilian employees normally will use the recreation center only for community affairs programs, participation in self-directed special interest group activities, tour programs, and centralized services (§ 983.9(e)(1)).

(c) Oversea commanders are authorized to permit host country nationals to participate in community affairs programs and self-directed special interest group activities.

(d) Visiting teams and boards will be permited to use the recreation center for nonrecreational purposes only if absolutely essential and no other base facility is available.

(e) Dependent youth eligible for the dependent youth activities (DYA) program will not use the recreation center unless participating in an activity sponsored by the DYA program as a scheduled part of the recreation activities and services program. Exceptions in this policy may be made to:

(1) Senior dependent youth (normally age 18) whose interests and maturity enable them to participate as young adults in self-directed special interest group activities such as arts, crafts, music, and drama.

(2) Dependent youth who have graduated from high school and are no longer eligible to participate in the DYA program.

(f) A system will be established to identify any dependent youth authorized to use the recreation center to insure that only authorized personnel use this privilege.

Subpart B—Recreation Centers, Staff, and Advisory Council

§ 983.4 Establishment and operation of recreation centers.

(a) The recreation center is a facility for leisure time activities for airmen. It is the hub of the recreation activities and services program and serves the base population with centralized services. It will be adequately provided with recreation supplies, furnishings, and equipment.

(b) Every active Air Force base will have a building specifically designated as a recreation center (category code 740-316). The building, or any portion thereof, will not be redesignated or used for other than the recreation activities and services program, as specified in paragraph (e) of this section, without prior approval of AFMPC/DPMSBS. Recreation center facilities, including structures, grounds, and approved outdoor areas operated as an integral part of the recreation center, will be maintained and serviced by the base civil engineer.

(c) The facility will be referred to as a "Recreation Center." No other designation is authorized unless used in conjunction with the term "Recreation Center." A contemporary localized name such as "Galaxy Recreation Center" or "Rap-Inn Recreation Center" is encouraged. The numerical designation of an Air Force organization will not be used, but memorialization of the facility is encouraged, and names will be submitted in accordance with AFR 900-9.

(d) The recreation center should be located in the base community center area or near other recreation facilities and be readily accessible to the airman population. It should have an identifying sign visible both day and night. The facility should include if space permits: A coffee house area; discotheque; snack bar/supper club; ballroom for dances, musical and dramatic productions to include staging facilities, lighting, and public address systems; game room; music room with large soundproof listening rooms; activity-meeting rooms; information-service area to include space for equipment issue, information data, and centralized services; check room; refreshment kitchen for activity use; storage space; offices; restrooms; janitor's closets; and adjacent patio.

(e) Offices or functions that are not a part of the recreation activities and services program will not be housed in the recreation center.

(f) Youth programs will not be conducted in the recreation center when other suitable facilities are available.

(g) Recreation programs will be given scheduling priority over other programs held in the recreation center such as briefings, commanders' call, conferences, and council and board meetings. The support of nonrecreation programs will depend upon the size of the recreation center staff, volunteers, and assistance from the sponsoring agency.

§ 983.5 Recreation center staff.

An essential ingredient of the recreation activities and services program is the need for the selecting, training, and development of a qualified and enthusiastic staff. Any compromise of this need is false economy. Qualified and trainable military personnel are mandatory.

(a) *Manpower determinants.* AFM 26-3 contains the appropriated fund manpower determinants.

(b) *Military personnel.* AFR 215-1 tells how airmen are assigned or employed in recreation center activities. Fulltime assigned military personnel are those having experience and/or academic training in recreation, personal recreation skills, leadership qualities, and successful experience in leading or conducting recreation activities.

(c) *Civilian employees.* (1) Employment of civilian personnel paid from appropriated funds and serving under civil service appointments will be in accordance with civil service commission requirements and Air Force regulations.

(2) Civilian personnel paid from nonappropriated welfare funds will be employed according to AFR 176-1 and AFM 176-5.

(d) *Volunteers.* Both military and civilian volunteers are essential to effective programing of recreation center activities. Military and civilian personnel, their families, and community civilians should be used to full advantage. Individuals and groups from nearby communities are an excellent resource of volunteer leadership and they can make a valuable contribution to fostering desirable base-community recreation relationships. Consideration should be given to organizing coed groups to get more participants involved in program planning. Basic information on recruiting, designating, and assigning volunteers is outlined in AFP 34-7-2.

(1) AF Form 2040, "Recreation Volunteer Personal Data," will be used as an application and data card for each regular volunteer. It will also serve as a register for the recreation volunteer identification cards that are issued and a directory of resource leadership.

(2) AF Form 2041, "Recreation Volunteer Identification," will be issued to each regular volunteer to use as an identification/pass. A 1- by 1½-inch photograph will be affixed to the top right corner of the card only when positive identification is necessary.

(3) When military vehicles are used to transport a group of young female volunteers to and from recreation center social functions, a responsible individual will be assigned as a chaperone-escort. Normally this individual will be a commissioned or senior noncommissioned officer or comparable civilian employee.

(i) The assigned escort will be thoroughly briefed on responsibilities with regard to safety and orderly transport of volunteers to and from the social event to preclude incidents which would reflect adversely on the Air Force.

(ii) Nonmilitary volunteers and entertainers will not be required to sign a liability release when being transported by a military vehicle.

§ 983.6 Recreation activities and services advisory council.

An active advisory council can be an effective tool for assisting the staff in program and facility planning and solving the numerous operational problems. A council is an adjunct to but not a replacement of adequate support from the commander. An advisory council may be established at each recreation center on an optional basis under the following guidelines.

(a) *Membership.* The council membership will be composed of interested airmen and volunteers representing a cross section of the installation. These individuals will serve as liaison between their organization and the recreation center. The recreation activities and services director will appoint council members by letter. The

number of council members depends on the size of the installation. All members will be carefully selected for membership on the basis of their personal interest in leisure-time activities. The recreation activities and services director will serve as executive secretary and provide technical guidance to the council.

(b) *Meetings.* The advisory council will meet at least once each calendar quarter. Monthly meetings are preferable.

(c) *Minutes.* Minutes of meetings will be submitted through special services channels for approval by the base commander.

Subpart C—Program Philosophy and Types of Activities

§ 983.7 Program philosophy and role of the recreation center.

(a) As a military hub for leisure-time activities and services, the recreation center must have a distinctive appearance to reflect the current scene, and a friendly atmosphere to attract the young airman. The recreation center should be a place where things are happening, and there is an opportunity to participate.

(b) In-depth opportunities will be provided for the young adult to: Participate according to his interests, communicate with others about current issues, problems, and solutions; stimulate the mind toward creative constructive thinking; and motivate, not simply entertain, in a meaningful atmosphere.

(c) The recreation center should serve as a sounding board where opinions may be expressed freely, analyzed, and discussed with the best and most highly qualified "people" resources that are available.

§ 983.8 Programing in the recreation center.

The primary objective in planning recreation activities and services is based on the premise that relevant entertainment and leisure activities create satisfaction. The program must be broad and varied and reflect current attitudes and interests. It must offer contemporary recreation activities and programs and the ever-changing patterns of the participants.

(a) Activities must be meaningful, stimulating, and challenging, and should promote a feeling of sharing, belonging, responsibility, and accomplishment.

(b) Emphasis will be placed on developing diversified, comprehensive programs of interesting activities to meet individual recreation needs and interests rather than on the programing of many minor events. Civilian resources, geographic location, and base mission are important elements in program development.

(c) Special emphasis will be given to contemporary social movements such as social awareness programs and community involvement. Each recreation center should sponsor or undertake at least one annual action project, such as recycling aluminum, glass, and paper. (See § 983.9(c)(9) for additional guidance.)

(d) Programs should be flexible to allow for emergency changes or substitutions and spontaneity.

(e) Multiple programing will be used to preclude limiting activities to one specific kind in one evening. Close coordination with related agencies and programs is essential to avoid conflicts of schedules and interests and assure best use of leadership, facilities, equipment, supplies, and transportation.

(f) Active participation by individuals and groups should be emphasized. Passive or spectator type participation should be encouraged only when active participation is not feasible or appropriate.

(g) Programs should be shared with off-base organizations, civic groups, schools, colleges, and universities.

(h) All social action type programs should be coordinated with the installation social actions office. Assistance can be obtained from this office for resource leadership (speakers) and program materials.

§ 983.9 Types of activities.

The broad spectrum of recreation activities and services is limited only by the imagination and resourcefulness of the recreation center staff. Generally, the following types of ac-

tivities are offered in each recreation center.

(a) *Self-motivated recreation.* Facilities and equipment are provided without recreation center staff leadership, organization, or direction. A recreation center should lend itself to drop-in types or self-directed activity such as pool, billiards, table tennis, table games, audio and television activities, instrumentation and playing music, lounging, socializing, reading, writing, and studying. If facilities are available, self-motivated recreation may be extended to outdoor programs.

(b) *Self-directed recreation.* Organized, self-directed special interest groups and organizations are encouraged to hold meetings and promote their particular recreation program when space and programing permit. Self-directed groups such as drama, chess, dance, art, photography, numismatics, modelers, bridge, stamp, language, music, travel, and audio-tape club/groups increase the diversity of the program.

(c) *Directed recreation.* Activities organized, conducted, or sponsored by the recreation center staff in close coordination with other base activities, and where appropriate, with community organizations. Examples are:

(1) *Large group activities.* Special basewide events, dances, holiday observances, picnics, parties, shows, birthday nights, and Monte Carlo nights.

(2) *Exhibits and demonstrations.* Travel slide shows, travel planning, white elephant sales, photo, arts, crafts, dance groups, sports, and similar educational programs.

(3) *Tournaments and contests.* Games, cards, talent, photography, squadron scrambles, and field days.

(4) *Entertainment.* Drama, productions, stage shows, musical groups and combos, choirs and choruses, jam sessions, battle of the bands, light shows, and film festivals.

(5) *Instructional classes.* Arts, crafts, gift wrapping, dancing, music, bridge, dog training, special cooking, family living, charm, and yoga.

(6) *Educational lectures.* Rap sessions, forums, avocational groups, literary workshops, music, and literary reviews.

(7) *Tour programs.* Tours are an important phase of community recreation service. They provide one of the best forms of social activity and attract military personnel in large numbers. Organized tours provide a medium for individuals to go sightseeing and visit historical landmarks, industry, natural attractions, and cultural/entertainment programs in the surrounding area, and, in the case of overseas, become better acquainted with the host nations.

(8) *Social awareness programs.* Ecology education, absentee voter registration, drug abuse, and other social problems.

(9) *Community involvement/movement programs.* Social services, domestic actions, civic projects, hospitals, orphanages, senior citizen centers, and prisons.

NOTE: A program for "Newcomers" should be held periodically to introduce new people to the recreation activities and services offered in the recreation center.

(d) *Coffeehouse activities.* Topics covering the most current and important issues, programed on the basis of interest, attendance, and availability of resource personnel having specialized knowledge of a particular subject. General categories involve subjects such as:

(1) *Self-reflection and introspection.* Morality, drugs, and marijuana (legal aspects, medical ramifications, psychological implications, morals, and general information), mind expansion (philosophy, astrology, graphology), and alcoholism.

(2) *Interpersonal relationships.* Family living (planned parenthood, zero population, etc.) and magazine articles and features (such as Human Sexuality and Psychology Today).

(3) *Educational opportunities.* On- and off-base education programs (high school, GED, colleges, technical training, and project transition), State employment, veterans benefits, and career opportunities.

(4) *Artistic expression.* Professional/military talent, art corner (instructions and demonstrations), history of art, music, dance, theater; yoga, karate and judo demonstrations; films and

discussions; and sing-a-longs with a banjo or player piano.

(5) *Issues and answers.* Ecology, space, welfare reforms, racial-ethnic encounters, military life ("Meet your Commander" nights, new policies, chain of command, and situational encounters), military/civilian judicial procedures, legislative happenings ("Truth in Lending," voting age), financial wizardry (stock market, credit union, loans), and current news events.

NOTE: The recreation center staff members are not expected to serve as discussion leaders unless they have an appropriate background or expertise in the topic material. Resource personnel should be professionals or have an indepth background, knowledge or personal experience in the subject matter. Contact the base information office or social actions office in obtaining speakers.

(e) *Supplemental activities.* (1) Centralized services for the entire installation such as an information center, with travel information, code telephones, tickets for special events, and current information on locations and hours of operation of recreation facilities, chapel services, exchange services, housing office, family services, Red Cross, education services, library, local bus schedules, dining halls, schedules of recreation and cultural events, both on base and in the nearby community. If resources permit, equipment such as slide and movie projectors, tape recorders, and portable typewriters should be available for checkout.

(2) Services for isolated and deployed units.

Subpart D—Funding and Operations

§ 983.10 Funding, equipment, supplies and services.

Appropriated funds will be used to furnish equipment, supplies, custodial services, and maintenance to the maximum extent authorized to support the recreation center and recreation activities and services program. Nonappropriated welfare funds may be used to supplement appropriated funds as necessary and to the extent they are available. Furnishings and equipment for exchange operated activities in the recreation center are the responsibility of the Army and Air Force Exchange Service (AAFES). Furnishings and decor will be correlated between both activities.

§ 983.11 Facility environment.

(a) Air Force Recreation Centers will reflect an up-to-date look that will appeal and relate to today's young airmen. A "communicative" atmosphere must be created using the most advanced and dynamic ideas in decorating and design. Abundant use should be made of supergraphics, contemporary colors, black light, fluorescent material and paints, light boxes, projection screens, and contemporary art styles. Mobile units can be used to screen and divide large areas for special functions and group activities. "Total environmental development" through the use of screens can be fabricated for light shows and special effects.

(b) Planning for the construction or major alteration of a recreation center will include interior design, furnishings, and equipment to insure a comprehensive and properly equipped facility. Such planning requires close coordination between special services (recreation activities and services director), civil engineering, supply, and procurement.

§ 983.12 Incidental income.

Dues will not be charged for use of the recreation center. Admission may be charged to help defray the cost of events that require large expenditures and for special interest groups. These activities include, but are not limited to, professional entertainment, dances with combos/bands, instructional classes, tours, guest lectures, etc. Money derived from fees and charges in connection with an activity conducted in a recreation center is incidental income to the central base fund and will be controlled and accounted for accordingly.

Subpart E—Restrictions

§ 983.13 Restrictions on activities.

(a) The Army and Air Force Exchange Service (AAFES) operates all revenue producing activities in the rec-

reation center. These activities include, but are not limited to, pizza beer bar/amusement centers, and coin-operated product service, amusement and game machines. The exchange general manager will cooperate with the recreation activities and services director so the exchange activity is operated in the best interest of the program in accordance with departmental regulations and AAFES operating procedures. Services which cannot be provided by AAFES may be operated by special services as an incidental income-producing activity under the central base fund, subject to major command approval required by AFR 147-7.

(b) Mechanical merchandising machines may be installed with the base commander's approval. Locations of machines will be coordinated with the recreation activities and services director.

(c) Gambling or gambling devices (such as punchboards and slot machines) will not be permitted within or about the recreation center or its facilities. Mechanical recreation games equipment, requiring skill in operation equivalent to pool, billiards, shuffleboard, etc., such as minibowling, soccer games, and coin-operated amusement and game machines may be installed. The term "mechanical recreation games equipment" excludes machines which produce either monetary or mechandise payoffs.

(d) No alcoholic beverages will be consumed, sold, or given away in the recreation center.

(e) Beer with an alcoholic content not exceeding 3.2 percent by weight (considered nonintoxicating) may be dispensed in the recreation center for on-premise consumption only. Beer is normally dispensed in the snack bar/supper club or discotheque.

(f) Tobacco products and accessories such as lighters will not be used for prizes, awards, or giveaways.

§ 983.14 Bingo.

Games will be conducted as friendly contests, not as lotteries or gambling concessions.

(a) *Laws and restrictions.* Bingo may be played in recreation centers on installations within the United States (including Alaska and Hawaii), its territories, and possessions which are fully ceded. Bingo may also be played on installations which are not fully ceded where bingo is allowed by the State, territory, or possession.

(1) *Participation restriction.* Participation will be limited to authorized participants, and bona fide guests over 18 years of age. Dependent youth will not be allowed to participate unless they are eligible to use the recreation center (§ 983.3(e)).

(2) *Foreign areas.* Local laws and internal agreements will be observed. Persons not authorized to receive customs free imports will comply with local customs procedures when receiving customs free imports as bingo prizes. Those authorized to receive U.S. currency or military payment certificates will be paid cash in the host country's currency.

(3) *Publicity.* To prevent violation of postal laws and regulations, bingo games will not be publicized in media distributed through the U.S. mail.

(b) *Control and administration.* Bingo will be self-supporting; therefore, appropriate charges must be made to preclude subsidization from the central base fund.

Subpart F—Administration and Personnel Policies

§ 983.15 Recreation center administration.

All programs should be objective in nature with full consideration of the interests of all participants. Effective management is imperative; however, policies and procedures must be practical and based on commonsense. Procedures that discourage participation or overcontrol to the point of restricting a recreation activity or service will not be established. Policies that only reflect the personal desires of the recreation center staff are not desirable. The following are basic requirements:

(a) The recreation center will remain open 7 days a week if resources and conditions permit. It will be open on all holidays. Hours of operation will be established to allow maximum attendance during off-duty time and not for staff convenience.

(b) Daily attendance figures and other appropriate data will be maintained for evaluating and analyzing the program and recreation center operation. General daily attendance will be obtained by averaging an hourly head count for self-motivated activities to give man-hour attendance. For self-directed recreation, directed recreation, coffeehouse activities, supplemental activities, and nonrecreation activities by outside agencies, the actual or peak figure of attendance will be shown for each group or activity. This method reflects both recreation man-hours and actual participation figures; furnishes a gage of use and popularity of various programs, services, and facilities; and provides information for scheduling program activities at hours popular with base personnel.

(c) Adequate financial and supply records will be maintained.

(d) Operating instructions will be issued for each major phase of the program center operation. This includes, but is not limited to:

(1) A current organizational functional chart (AFM 26-2).

(2) Employees' current duty schedules, assignments, and job descriptions.

(3) On-the-job training programs for appropriate staff members, new employees, and volunteers.

(4) Fire and safety precautions.

(5) Local policy and instruction on use of the recreation center by other agencies. This should include policy on use of facilities, compliance procedures, how to request use of facilities, standing reservations, canceling reservations, responsibility of recreation center staff, and responsibilities of the using agency.

§ 983.16 Staff personnel policies.

The complexity of administering and managing a viable recreation program is demanding and requires creative and visionary leadership of the highest professional caliber. The overall supervision and support of recreation center activities and leadership will be stressed at all levels. Staff members will insure the elimination of outmoded, ineffective, nonprofessional, and limited programs that do not generate participation. The recreation center staff should serve as a catalyst in the organization of self-directed special interest groups and assist them in program planning.

(a) *Duty hours.* Duty hours for professional civilian employees and staff members call for an uncommon tour of duty which includes evenings, holidays, and weekends. Program requirements are the prime factor in determining duty schedules. If more than one professional civilian is employed the evening schedule will be rotated.

(b) *Mess and quarters.* Civilian employees required to be on duty during day and evening hours will be eligible for suitable on-base quarters and appropriate mess privileges. The same privileges should be accorded recreation center student trainees.

(c) *Exchange and commissary.* Use of the base exchange and commissary are authorized Department of Defense civilian employees at certain locations (Part 823 of Subchapter C of this chapter).

(d) *Medical and dental care.* Emergency medical and dental care may be obtained in accordance with Part 815 of this subchapter.

(e) *Transportation.* Personnel transacting program business are authorized official transportation.

(f) *Recruitment.* The recruitment, selection, and processing of professional civilian employees are the responsibility of each installation. Oversea positions are handled by the Central Oversea Recruiting Office, Directorate of Civilian Personnel, HQ USAF. Major command and Numbered Air Force recreation staffs will provide recruiting assistance upon request. Requests will reflect the grade and type of position and information on the availability and cost of on-base quarters or housing in adjacent communities.

§ 983.17 Standards of dress and personal appearance for participants.

All recreation activities and services programs in the recreation center will be offered in a comfortable, casual, and leisurely atmosphere. Participants and guests will be permitted to dress according to their personal preference,

except that standards of dress and personal appearance will be in conformance with AFM 35-10 or AFR 30-16, as appropriate. Work clothing (utility and flight uniforms and organizational clothing) may be worn in the recreation center unless it is inappropriate for the particular program (for example, a dance or reception). Additional dress requirements may be imposed for special events.

PART 984—AIR FORCE AERO CLUBS

Sec.

984.0 Policy.
984.1 Purpose of aero clubs.
984.2 Base supervision of aero club operation.
984.3 The Board of Governors (BOG).
984.4 Club officers.
984.5 Club manager.
984.6 Flight instructors.
984.7 Chief flight instructor.
984.8 Categories of membership.
984.9 Selection of members.
984.10 Members' responsibilities.
984.11 Membership privileges.
984.12 Transfer of membership.
984.13 Covenant not to sue for property damage or loss, injury or death and indemnity agreement.
984.14 Aero club records.
984.15 Policy on flight training under the "Veterans' Pension and Readjustment Act of 1967."
984.16 General membership meeting.
984.17 Pilot restrictions.
984.18 Carrying passengers and crew members.
984.19 Pilot qualifications and currency.
984.20 Minimum flight time to maintain currency in club aircraft.
984.21 Training program.
984.22 Accident prevention program.
984.23 Attendance at safety meetings.
984.24 Contracts and leases.
984.25 Dues and initiation fees.
984.26 Collection of overdue accounts.
984.27 Aero club aircraft.
984.28 Aircraft hull repair.
984.29 Policy on obtaining commercial insurance.
984.30 Other insurance.

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§ 984.0 Policy.

(a) This part outlines the policies that apply worldwide in the Air Force aero club program. It explains the purpose of such a club, and tells who is eligible for the various categories of membership. It explains the commercial insurance policies that apply to each club. It does not apply to members of the Air Force Reserve or the Air National Guard unless they are associate members of an aero club. A commander outside the continental United States may make modifications as necessary to comply with policies and procedures established by his host government, provided he does not deviate from the intent of this part or other appropriate Air Force regulations governing Air Force aero clubs.

(b) Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 984.1 Purpose of aero clubs.

(a) Aero clubs are established as recreational activities to promote morale and will be operated without discrimination regarding race, color, creed, sex, or national origin. They are established to give eligible personnel an opportunity to:

(1) Enjoy safe, low cost, light aircraft operations.

(2) Develop skills in aeronautics.

(3) Develop an awareness and appreciation of aviation requirements and techniques.

(4) Provide a social activity for members.

(b) The commander may also use aero club aircraft in support of the USAF Survival, Recovery, and Reconstruction Plan (USAF SRR Plan), if such use is authorized by the club's constitution and bylaws.

§ 984.2 Base supervision of aero club operation.

Commanders' responsibilities include: Staff surveillance, procedures to insure compliance with this part and Federal Aviation regulations and other appropriate directives, financial accounting, Federal Aviation Administration coordination, sale of petroleum, base facilities, aircraft-airframe standardization, authority to pilot loan aircraft, and inspections.

NOTE: If an aero club does not establish operations on the base, it may use a civilian airport. If the use of facility is acquired by a license (use in common with others), the club will request approval from the base commander for this use. If the use of the facility is acquired by a lease (exclusive possession), the club must request approval from AFMPC/DPMSF, Washington, D.C. 20330. Any contract for a civilian airport must permit inspections by the Air Force.

§ 984.3 The Board of Governors (BOG).

The board will be comprised of five to 11 active or associate voting members (the majority of the voting body will be active members). Three of these voting members will be: (a) A senior officer (rated pilot) from the directorate of operations, (b) the base or wing flying safety officer, and (c) a representative from the directorate of maintenance/material. Additional members may be appointed or elected based upon local club requirements. The board will meet at least monthly. Minutes will be kept and forwarded through the chief of special services to the commander for approval. The board of governors is responsible for insuring that the club operates in a safe, efficient, and businesslike manner.

§ 984.4 Club officers.

Each club will provide specific job descriptions and responsibilities for each position. Club officers may be designated to hold more than one position (that is, the board of governors operations officer could also hold the position of club operations officer).

§ 984.5 Club manager.

Each club will have a manager. The manager should be a full-time employee paid from aero club revenues. Major commands are authorized to allow a club to operate with a qualified volunteer serving as manager.

(a) *Relationship of manager to Board of Governors.* The manager is employed by the board and is under the supervision of the president. The board is responsible for providing a job description and operating instructions (OI's) to guide the manager in conducting the club's business.

(b) *Selection of the manager.* The board of governors will select the manager. It will check the qualifications of potential employees to insure selection of a capable, mature, conscientious manager who possesses sound judgment and good business sense.

(c) *Administrative functions of the manager.* The club manager conducts the club's daily business. He insures that club facilities are kept clean and orderly, and coordinates all daily club activities and problems with the president of the board of governors. He must thoroughly understand and discharge all responsibilities assigned to him and will:

(1) Maintain:

(i) A flight schedule logbook for all flights on a first-come, first-served basis.

(ii) The necessary bulletin boards, charts, status boards, and the pilot's information file.

(iii) Currency records.

(2) Provide job descriptions for all club employees.

(3) Supervise club employees.

(4) Immediately report mishaps, late aircraft, or other information pertinent to safety to the base safety officer.

(5) Keep constant surveillance of club supply function to insure:

(i) Proper accountability and adequate storage for property.

(ii) Prompt disposal of excesses.

(6) Insure that he or a qualified supervisor (clearance official), designated in writing, is on duty at all times while students or pilots with less than 200 hours are flying in the local area. Procedures will be established with the Federal Aviation Administration or base operations to provide a means of notification of overdue aircraft or other emergencies. The notification procedures must provide a means for base operations or Federal Aviation Administration to notify a responsible aero club official.

§ 984.6 Flight instructors.

Flight instructors are designated by the board of governors and will perform duties on the basis of a contract for personnel services. Guidelines for personal services contracts are provided in AFM 176-5 and AFM 176-16, attachment 26. Flight instructors will

not perform flight instructor duties in an employee status.

(a) Each flight instructor must hold a valid Federal Aviation Administration flight instructor certificate.

(b) Aero club members who are Federal Aviation Administration-certified flight instructors may be compensated for off-duty instructions at a rate established by the board of governors.

(c) As an exception to AFR 176-1, paragraph 11c, major commands may grant a waiver to permit an individual member of an aero club board of governors to serve as a club flight instructor.

§ 984.7 Chief flight instructor.

A chief flight instructor will be designated by the board of governors and will supervise and monitor the activities of all club instructors. He will be a certified flight instructor and when possible meet the requirements of the Federal Aviation regulations, 14 CFR Part 141.

§ 984.8 Categories of membership.

There are three categories of membership: Active, associate, and introductory. In these categories, the term "children" refers to any unmarried legitimate child, adopted child, or stepchild, who has not passed his 21st birthday, or his 23d birthday if he is enrolled in a full-time course in an institution of higher learning approved by the Secretary of Defense or the Secretary of Health, Education, and Welfare.

(a) *Active.* Limited to active duty military personnel of the U.S. Armed Forces.

(b) *Associate.* May be extended on a space available basis to:

(1) The dependents, spouse, and children of an active duty military member.

(2) A retired military member, dependents, spouse, and children.

(3) A civilian DOD employee, dependents, spouse, and children. (This includes employees paid from nonappropriated funds.)

(4) An Air Force, Army, or Naval Academy cadet.

(5) A military member of a foreign government who is on duty with the Department of Defense (DOD).

(6) A member elected to the U.S. Congress or a statutory appointee of the Federal Government, with the approval of HQ USAF/DPMSBS.

(7) A Federal Government employee working on a military installation.

(8) In an oversea location, any Federal Government employee in the area, or a U.S. citizen who is working on a military installation, if the local commander determines that club membership is in the best interest of the United States.

(9) The unremarried widow and children of a deceased active duty or retired member of the U.S. Armed Forces.

(10) Retired DOD personnel, but only in the aero club where they were members at the time of retirement.

(c) *Introductory.* May be extended to an individual who is eligible for active or associate membership. The length of the introductory membership will not exceed 30 days and is not renewable within 2 years.

§ 984.9 Selection of members.

To be an aero club member:

(a) Applicant must submit an application, monthly dues, and initiation fee (if applicable).

(b) Application must be reviewed and approved by the manager (who must verify that applicant is eligible for membership) and at least one voting member of the board of governors. At this point the applicant may enjoy privileges, subject to final review and approval.

(c) Application approval must be recorded in the minutes of the next regularly scheduled board meeting.

(d) Applicant must be issued a membership card signed by the club president.

§ 984.10 Members' responsibilities.

Each aero club member must:

(a) Be familiar with the following applicable directives.

(b) Pay established dues in advance. Dues will be based on identical rates for all members. However, the board of governors is authorized to approve lower dues and initiation fees for additional members of a family.

(c) Provide assistance in the day-to-day operation of the club as requested by the board of governors.

§ 984.11 Membership privileges.

Members in good standing are extended the following privileges:

(a) Only an active member, associate member, introductory member receiving instruction from a club flight instructor or a club flight instructor (flying in official capacity) may pilot an aero club aircraft. (The commander may authorize a specific one-time exception to permit a prospective buyer to fly a club-owned aircraft on a local flight with a club member: *Provided,* The buyer signs a covenant not to sue.) An aero club pilot may not carry any passengers in an aero club aircraft except:

(1) A Federal Aviation Administration flight inspector, examiner, or examiner designee who is checking aircraft airworthiness, or is officially examining an aero club member.

(2) A Federal Aviation Administration airplane and propulsion (A. & P.) mechanic whose presence in aircraft is necessary to sign off maintenance performed on the aircraft.

(3) Individuals designated by the major command (may not be delegated) for the purpose of evaluating aero club pilot standardization.

(4) An active, associate, or introductory member of an Air Force aero club.

(5) Dependents, spouse, children, mother, father, brothers, or sisters of an aero club member, if the sponsor is also aboard.

(6) Active duty military personnel and civilian Department of Defense employees on official temporary duty, provided the pilot is a club member who is on temporary duty to the same location.

(7) A full-time aero club employee on a flight specified by the board of governors.

(b) Introductory members may ride as passengers on local flights only with another club member who possesses a current commercial or higher rating, and may receive a maximum of 6 hours of dual instruction from a club flight instructor.

§ 984.12 Transfer of membership.

When an aero club member transfers from a station, he will not be required to pay a club initiation fee at the new station if he presents a letter of good standing and meets the requirements of § 984.8. Aero clubs are authorized to accept a letter of good standing from other military aero clubs.

§ 984.13 Covenant not to sue for property damage or loss, injury or death and indemnity agreement.

(a) Each aero club member who is not an active duty member of one of the Armed Forces of the United States will not be permitted to use aero club aircraft until he or she executes a covenant not to sue for property damage or loss, injury, or death, and indemnity agreement (paragraph (c) of this section). When executed, the covenant will remain on file with his or her application. A new covenant will be executed at least once each 12 months.

(b) Before any flight, all passengers authorized to ride in aero club aircraft who are not active duty members of any of the Armed Forces of the United States will be required to execute a one-time covenant not to sue for property damage or loss, injury, or death, and indemnity agreement (paragraph (c) of this section). Each person must execute a separate covenant and agreement. One member of a family may not execute a covenant and agreement for the entire family. In the case of a minor, a parent or legal guardian will be required to execute the covenant and agreement on behalf of the minor. The same executed covenant may be used for known successive flights when it would be impractical for the passenger to execute additional covenants and agreements. For example, a cross-country flight from Tinker Air Force Base to Scott Air Force Base, from Scott Air Force Base to Bergstrom Air Force Base, and then from Bergstrom Air Force Base to Tinker Air Force Base entails three separate flights, but only one executed covenant and agreement by each passenger is needed. When executed, each covenant and agreement will remain on file for at least 90 calendar days at

the aero club office where the sponsor is a member.

(c) Format for covenant not to sue and indemnity agreement.

Place ————————————————
Date ————————————————

I, (Printed name),[1] am about to voluntarily participate in various activities, including flying activities, of the Aero Club as a pilot, student pilot, copilot, instructor, or passenger. In consideration of the Aero Club permitting me to participate in these activities, I, for my heirs, administrators, executors, and assignees, hereby covenant and agree that I will never institute, prosecute, or in any way aid in the institution of prosecution of, any demand, claim, or suit against the U.S. Government and/or its officers, agents, or employees, acting officially or otherwise, for any loss, damage, or injury to my person or my property which may occur from any cause whatsoever as a result of participation in the Aero Club.

If I should demand, claim, sue, or aid in any way in such a demand, claim, or suit, I agree to indemnify the U.S. Government for all damages, expenses, and costs it may incur as a result thereof.

I understand and agree that I am assuming the risk of any personal injury or property damage to me that may result while participating in Aero Club activities, including such injuries or damage that may be caused by the negligence of the U.S. Government.

I also understand and agree that I may be held liable for any damage or loss to the U.S. Government which is caused by my gross negligence, willful misconduct, or fraud.

The term U.S. Government as used herein includes the Aero Club and any officer, agent or employee of the U.S. Government/or the Aero Club, acting officially or otherwise.

Date:
Signature ————————————————
Signature, Aero Club Officer ————————————

————————————————————

[1] If a minor so indicate and state age. If the minor is capable of signing have him sign. If he is not capable, have parent sign for him, i.e., "John Jones by Harry Jones, his father" and sign below.

For minors————————————————
I/We————————————————
of the above-said minor child do hereby (1) consent to him/her participating in the ———————— Aero Club activities, (2) agree to reimburse the U.S. Government for any damage incurred by it for which my child would be liable were he over 21 years of age.
Date ————————————————
Parent's Signature ————————————

The above form is to be completed for all minors, regardless of age and regardless of whether the parent has executed the indemnity agreement form on behalf of the minor.

§ 984.14 Aero club records.

(a) Each aero club will maintain a training folder for each club member, to include as a minimum:

(1) Membership data (include category—active, associate, or introductory member—and basis for eligibility; that is, DCS/P GS-13; retired Army major; etc.).

(2) A pilot's initial checkout record and other required standardization flights.

(3) Aircraft questionnaires for aircraft the member is authorized to pilot.

(4) Covenants not to sue (if required).

(5) Other data at the discretion of the board of governors.

(b) Records of aircraft and individual club members remain active as long as the aircraft and member remain active.

§ 984.15 Policy on flight training under the "Veterans' Pension and Readjustment Act of 1967."

To ensure that the opportunity to receive advance flying training is available to club members during their free time, an aero club may conduct flight training under the Veterans' Pension and Readjustment Act of 1967: *Provided,* The local and major commanders grant approval and exercise positive guidance and control. If the above training is provided, the base education office will handle the administration of all active duty students.

§ 984.16 General membership meeting.

A general membership meeting will be conducted at least once a year for the purpose of conducting business and electing of officers.

§ 984.17 Pilot restrictions.

(a) The maximum duty day is 12 hours for a single pilot or 16 hours with two qualified pilots in a dual-controlled aircraft. Flight duty day begins

when the pilot reports for the flight or when he reports for his first duty of the day, whichever is earlier. Minimum crew rest between duty days is 12 hours.

(b) No aerobatic maneuvers may be flown below an altitude of 2,500 feet above ground level (AGL). A club member may perform only maneuveres that are specifically permitted by the aircraft manufacturer's handbook, Federal Aviation regulations, and club rules. The board of governors will publish the type of aerobatics that may be flown.

(c) Stalls, steep turns (over 45 degrees bank), slow flight and unusual altitude will not be performed below 1,500 feet AGL. Maneuvers that must be performed below 1,500 feet AGL for pilot certification are authorized.

(d) An aero club member will not pilot an aero club aircraft on a night cross-country flight unless he holds a valid Federal Aviation Administration instrument rating, and is instrument current in the aero club. Pilots without a Federal Aviation Administration instrument rating may fly local visual flight rules (VFR) night flights provided visual contact is maintained with an airport in the local area authorized for night solo use. Aerobatics, unusual attitudes, and instrument practice at night are prohibited. Night instrument training conducted by an instrument certified instructor is authorized.

(e) Touch-and-go landings by solo students are not permitted. Other pilots may perform touch-and-go landings only at runways designated in writing by the commander.

(f) Pilots will flight plan and terminate all flights at designation with a minimum of 1 hour fuel remaining.

§ 984.18 Carrying passengers and crew members.

(a) Passengers will not be carried in aero club aircraft during training flights, qualification check flights, or maintenance test flights.

(b) Only the instructor and the member or members receiving a flight check are permitted aboard during qualification check flights.

(c) Only the instructor and member or members receiving instruction are permitted aboard during training flights.

(d) An FAA-certified A&P and IA mechanic may accompany maintenance check flights if he is required to sign off maintenance performed on the aircraft.

§ 984.19 Pilot qualifications and currency.

To fly an aero club aircraft as pilot-in-command, members must satisfy Federal Aviation Administration requirements and the requirements of this part.

§ 984.20 Minimum flight time to maintain currency in club aircraft.

A pilot who loses currency in specific type aircraft will be required to accomplish an initial checkout.

(a) *Visual flying.* (1) a Student pilot must demonstrate proficiency at least once each 30 days to his instructor by a dual instructional flight of at least 1 hour and five landings. He will not fly solo until he has passed a pre-solo progress check given by the chief flight instructor or designated instructor. A student will maintain currency in only one aircraft.

(2) Private pilots with less than 200 hours pilot time must accomplish a minimum of 1 hour flight time and five landings each 60 calendar days in each specific type of aircraft in which qualified.

(3) Commercial pilots, instructor pilots, and private pilots with more than 200 hours pilot time must accomplish a minimum of 1 hour flight time and five landings each 90 calendar days in each specific type aircraft in which qualified.

(b) *Night currency.* Accomplish a minimum of 1 hour of night flight time, with five takeoffs and five landings to a full stop, within the time period appropriate to his day currency requirements.

(c) *Instrument currency.* Maintained in aero club aircraft per this part and Federal Aviation regulation, 14 CFR Part 61.

§ 984.21 Training program.

A definite, standardized course of instruction is essential to every pilot, regardless of certificates and ratings.

Each aero club must establish a primary ground school which is mandatory for all students and a primary flight training program based on the curriculum outlined in Federal Aviation regulation, Part 141. The chief flight instructor or his designated representative will conduct progress checks for student pilots before release for solo and before release for solo cross-country and as required by Federal Aviation regulations. Each aero club is encouraged to seek Federal Aviation Administration certification for its training program. Standardization of training programs will be enhanced by the following.

(a) The chief flight instructor will develop operating instructions for all flight instructors. These operating instructions will contain as a minimum:

(1) Flight instructor's duties and responsibilities.

(2) Standardization of flight check procedures.

(3) Outlines of training curriculums in accordance with Federal Aviation regulation, 14 CFR Part 141, for each training program conducted by the Aero Club.

(4) Endorsement requirements for student certificates and logbooks from Federal Aviation regulation, 14 CFR Part 61.

(b) Standard dual and solo training cross-country routes will be established. Deviations will be permitted only with written permission from the chief instructor. In all cases, the following criteria must be met:

(1) There must be graduated degrees of difficulty in navigation.

(2) Where possible, both controlled and uncontrolled strange airports must be utilized.

(3) Training in civil weather briefings and flight plan filing and closing procedures must be accomplished.

(4) Training in visual and navigational aids orientation procedures must be accomplished.

(5) Detailed operating instructions for deteriorating weather and lost procedures will be developed and a copy will be aboard the aircraft during flight.

(6) Training must be provided in the interpretation and use of all operating instructions contained in the appropriate aircraft owner's manual, or equivalent aircraft operating instructions.

(7) Calculation and use of density altitude must be stressed.

(c) All student solo cross-country flights will be conducted during daylight hours only. When all dual cross-country requirements have been met and a student has completed 5 hours of solo cross-country into airfields where the student has previously executed satisfactory traffic patterns with an instructor, he may fly the remainder of his solo cross-country requirements into strange airports.

(d) Student solo cross-country routes will be closed courses requiring no more than 3 hours of flying time and a total of 6 hours total flight and ground time to complete.

(e) All pilots (including rated military) without light aircraft cross-country experience within 2 years will be required to accomplish a minimum of 2 flight hours of dual navigation instruction by a certified flight instructor, followed by an oral test on flight planning prior to acting as pilot-in-command for a cross-country flight.

(f) Training in simulated forced landings is authorized: *Provided*, The aircraft is not allowed to descend below 250 feet AGL unless the landing is on an authorized runway. A student will practice forced landings only with an instructor.

§ 984.22 Accident prevention program.

Safety is an essential consideration of aero club operations. In a large part, safety consists of avoiding mishaps and is the individual responsibility of every aero club member. To assist each member in his efforts to eliminate mishaps, an accident prevention program will be implemented. The success of an accident prevention program depends on the exercise of each member's responsibility, the ability and aggressiveness of the club and base flying safety officers, and the extent to which they are supported by the board of governors and the commander. The Directorate of Aerospace Safety (IGDS) is the office of primary responsibility for all aero club safety matters.

§ 984.23 Attendance at safety meetings.

Attendance will be mandatory for all club members. A member who fails to attend one or more meetings invalidates his currency. He will be denied all club flying privileges until he has reviewed the minutes of the meetings or has been briefed on the contents of the meeting by the club safety officer or his designated briefing representative. Records of attendance and make-up reading or safety officer briefing will be maintained for 1 year.

§ 984.24 Contracts and leases.

Before consummating any contract or lease, the aero club will obtain the guidance and concurrence of the base staff judge advocate.

(a) Aircraft lease agreements must provide that the aero club will have exclusive control of the aircraft during the entire period of the lease.

(b) No part of rental charges or lease-purchase payment may include a fee for public liability or property damage insurance. Commercial purchase of such coverage is prohibited (See §§ 984.29 and 984.30).

§ 984.25 Dues and initiation fees.

(a) Dues and initiation fees are set forth in the aero club bylaws.

(b) If the aero club constitution authorizes introductory memberships, the initiation fee is not payable until the prospective member applies for active or associate membership.

§ 984.26 Collection of overdue accounts.

Members must settle all individual accounts on or before the 15th day of the month following the month in which the debts are incurred. The board of governors will deny club privileges to habitual delinquents and those failing to pay when notified of delinquency and will:

(a) Notify personnel with a delinquent account directly and ask each to pay upon receipt of notification. If a member fails to pay when he is notified of delinquency, report the facts in writing to the installation commander and send an information copy of the report to the member's commander. Do not extend additional credit until he settles the delinquent account.

(b) Require aero club members who are enrolled in the Veterans' Administration Program to pay 10 percent of the Veterans' Administration charges by the 15th day of the month following the month in which the debts were incurred. The remainder of the Veterans' Administration charge will be paid within 90 days before it is considered delinquent.

§ 984.27 Aero club aircraft.

(a) *Definitions*—(1) *Club-operated aircraft.* Any aircraft in the possession of an aero club, without regard to airworthiness.

(2) *Government-loaned aircraft.* Department of Defense aircraft designated for aero club use.

(3) *Club-owned aircraft.* Any aircraft operated by an aero club will be considered to be club-owned, provided it is not a leased, concessionaire-operated, privately owned, or government-loaned aircraft.

(4) *Leased (rental) aircraft.* Any aircraft operated by an aero club on which the written lease (rental) agreement does not provide that a part of rental charge accrues to the benefit of the aero club with an option to purchase aircraft within a specific time period.

(5) *Lease-purchase aircraft.* Any aircraft operated by an aero club on which the written lease-purchase agreement provides for a portion of rental charges to accrue to the benefit of the aero club for their eventual optional purchase of the aircraft within a specified time period. (Caution: No part of rental charges or lease-purchase payment may include a fee for public liability, passenger liability, or property damage insurance.)

(b) *Aircraft groupings.* (1) Group I—Club-owned aircraft valued at $1,500 or more.

(2) Group II—All other club-owned aircraft.

(3) Group III—Government-loaned aircraft.

(4) Group IV—Leased aircraft.

(5) Group V—Leased/purchase aircraft.

§ 984.28 Aircraft hull repair.

Effective July 1, 1961, the Air Force Welfare Board authorized the establishment of an aircraft hull program. This is a mutual financial assistance plan designed to assist all U.S. Air Force Aero Clubs in the repair of hull damage to aero club-owned aircraft valued at $1,500 or more. Aero Club participation in this program is mandatory.

§ 984.29 Policy on obtaining commercial insurance.

A club member's aircraft is a privately owned aircraft and, unless the aircraft is exclusively leased to an aero club, insurance is the responsibility of the owner (Part 855 of this subchapter applies if owner desires permission to operate aircraft from an Air Force base).

(a) *Optional commercial insurance.* This applies to hull insurance on club-leased aircraft (Groups IV and V); club-owned aircraft (Group II) valued at less than $1,500; and Government-loaned aircraft (Group III). If commercial hull insurance is acquired on Government-loaned aircraft, the insurance policy must contain the clauses required by AFR 176-8 and an endorsement which provides that the carrier waives its rights to the salvage value of the insured aircraft.

(b) *Commercial insurance not authorized.* (1) Hull insurance on club-owned aircraft valued at $1,500 or more (Group I).

(2) Except as required by a host country, and as approved by HQ USAF/DPPW, Washington, D.C. 20330, public liability (including passenger liability) and property damage insurance coverage for any Air Force aero club-operated Group I, II, III, IV, or V aircraft reported on AF Form 270. (See AFR 176-8 for mandatory Air Force welfare board self-insurance programs for liability and hull insurance.)

§ 984.30 Other insurance.

(a) *Public liability and property damage insurance.* AFR 176-8 prohibits an aero club from procuring commercial insurance for protection against claims on lawsuits which may arise from personal injury, death, or property damage. Such claims involving an aero club, its employees or membership are settled as provided in Part 842 of Subchapter D of this chapter.

(b) *Fidelity and other casualty insurance.* For protection of other club assets, such as, parts sales inventory, etc., coverage will be procured as prescribed in section F, AFR 176-8.

(c) *Insurance for employee benefits.* Aero club civilian employees are afforded workmen's compensation benefits and are authorized to participate in the U.S. Air Force nonappropriated funds group insurance program as provided in AFR 176-8.

PARTS 985–987 [RESERVED]

PART 988—WEATHER MODIFICATION

Sec.

988.1 Purpose.
988.2 Policy.
988.3 Terms defined.
988.4 Processing initial requests to establish a capability for operational weather modification.
988.5 Responsibilities.
988.6 Notification, records, and reports.
988.7 Daily log information.
988.8 Supply of forms.

AUTHORITY: 10 U.S.C. 8012.

SOURCE: 44 FR 54479, Sept. 20, 1979, unless otherwise noted.

NOTE: This part is derived from Air Force Regulation 105-7, July 5, 1979.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 988.1 Purpose.

This part sets up the policy, procedures, responsibilities, and reporting requirements for weather modification activities. It applies to USAF organizations engaged in or actively planning to engage in such activities, whether carried out by employees, agents, or independent contractors.

§ 988.2 Policy.

HQ USAF/XOO will validate all requests for Air Force units to partici-

pate in or conduct weather modification activities.

§ 988.3 Terms defined.

(a) *Weather Modification Activity.* Any activity designed to produce artificial changes in the composition, behavior, or dynamics of the atmosphere. This includes:

(1) Seeding or dispersing of any substance into clouds or fog to alter drop size distribution, produce ice crystals or coagulation of droplets, alter the development of hail or lightening, or influence in any way the natural development cycle of clouds or their environment.

(2) Using heat sources to influence convective circulation or to evaporate fog.

(3) Releasing gases, dust, liquids, or aerosols into the atmosphere to modify the solar radiation exchange of the earth or clouds.

(4) Dusting or treating with powders, liquid sprays, dyes, or other materials to modify the energy transfer characteristics of land or water surfaces.

(5) Releasing electrically charged or radioactive particles or ions into the atmosphere to affect the growth of clouds or cloud droplets.

(6) Applying shock waves, sonic energy sources, or other explosive or acoustic sources to the atmosphere to influence cloud growth, dissipation, or precipitation patterns.

(7) Using aircraft propeller downwash, jet wash, or other sources of artificial wind generation to dissipate fog or stratus clouds.

(8) Using lasers or other sources of electromagnetic radiation to dissipate fog or stratus clouds.

(b) *Project.* A related series of weather modification activities having a common objective.

(c) *Modification Mission.* One or more airborne weather modification activities intended to affect the same target area, or one or more weather modification activities carried out by items of ground-based weather modification apparatus intended to affect the same target area. Activities that extend beyond 1 calendar day shall constitute a separate mission for each day they continue.

(d) *Target Area.* The ground area within which the effects of the weather modification activity are expected to be found.

(e) *Control Area.* A preselected, untreated ground area used for comparison.

(f) *Weather Modification Apparatus.* Any apparatus for producing artificial changes in the composition, behavior, or dynamics of the atmosphere; for example, seeding generators, propane devices, flares, rockets, artillery projectiles, or jet engines.

§ 988.4 Processing initial requests to establish a capability for operational weather modification.

If an Air Force activity receives a request for assistance in weather modification from:

(a) A foreign nation or international organization, the requester should be advised to send the request through diplomatic channels to the Department of State.

(b) An individual or organization at a state, county, or local level, the requester should be advised to send the request to the proper federal agency; that is, the Office of Emergency Preparedness in the event of disaster or emergency relief, or the Department of Commerce, or Department of Interior, as applicable.

(c) A Department of Defense (DOD) agency, the requester should be advised to send the request through command channels to HQ USAF/XOO for validation.

§ 988.5 Responsibilities.

Unless otherwise stated in a program management plan or other document, specific responsibilities are as follows:

(a) *Air Force Systems Command (AFSC).* (1) Plans and conducts research and development to improve and expand Air Force capabilities to modify the environment.

(2) Evaluates the technical soundness of new or improved weather modification techniques.

(b) *Air Force Communications Service (AFCS).* Provides or arranges for organizational maintenance and intermediate maintenance for ground-based, Air Force-owned weather modi-

fication equipment not integral to research and development.

(c) *Aerospace Rescue and Recovery Service (ARRS).* (1) Manages the airborne, Air Force-owned weather modification equipment.

(2) Provides organizational and intermediate maintenance for airborne, Air Force-owned weather modification equipment not integral to research and development.

(d) *Air Weather Service (AWS).* (1) Provides to Air Force organizations and those US Army organizations, where AWS has weather support responsibility, technical advice and planning assistance in the operational application of weather modification techniques.

(2) Submits statements of need (formerly general operational requirements) (AFR 57-1) for weather modification systems and items of equipment.

(3) Evaluates the scientific soundness of weather modification proposals.

(4) Manages ground-based, Air Force-owned weather modification equipment.

(5) Conducts operational tests and evaluations of new weather modification systems, equipment, or promising techniques for the purpose of adopting them to specific operational support requirements.

(6) Assists the project proponent in the development of an environmental impact analysis document according to AFR 19-2.

(e) *Installation and base commanders.* (1) Determine the legality of weather modification activities and coordinate the legal aspects with the proper agency at the local level (state, county, or municipality).

(2) Provide logistical support to approved weather modification projects.

(3) Administer settlements provided under AFM 112-1 for all claims arising out of noncombat weather modification activities.

(4) Initiate notice to airmen (NOTAM) on modification activities affecting air operations.

(f) *Other Organizations.* Organizations intending to engage in or contract for weather modification activity on an Air Force installation or use Air Force facilities or equipment to conduct such activity.

(1) Plan and implement weather modification activities with the commander or staff weather officer of the AWS unit at the affected Air Force installation.

(2) Get approval of the base commander and proper major command authority before conducting the modification activity.

(3) Request validation, through command channels, from HQ USAF/XOO of new requirements to participate in or conduct weather modification activities 120 days before the desired date of operations. As a minimum, requests should include:

(i) A detailed description of the uses to be made of weather modification.

(ii) The period during which weather modification is required.

(iii) A mission impact statement and justification.

(iv) A statement that the environmental impact analysis process has been completed or that a draft environmental impact statement is required. Either a finding of no significant impact and the supporting environmental assessment or a proposed draft environmental impact statement will accompany the request.

(4) Specify that the vendor in contracted programs provide daily logs and yearly reports. As the lead agency, the contracting Air Force agency must maintain daily logs and submit the yearly activity report.

(5) Arrange for funding of contracted weather modification activities in Military Airlift Command/Air Weather Service-conducted activities, for funding of O&M actions not within the capability of AWS and for equipment not in the Air Force inventory.

(6) Prepare news releases (for local areas, national release, or both). Such releases will be coordinated with the information officer of the installation at which the proposed weather modification activity will take place. In the case of off-base activities, the release will be coordinated with the nearest Air Force information office. Information copies of all news releases will be sent to HQ USAF/XOO and RDP; the Secretary of the Air Force, Office of

Information (SAF/OIPC); and HQ MAC/OIP.

(7) Coordinate any proposed procurement of equipment and testing activities with HQ USAF/XOO and RDQSD.

(8) Ensure that the environmental impact of the activity is monitored according to AFR 19-1 and with any commitments made in the analysis documentation. Also, any mitigation procedure agreed to must be carried out and a complete record maintained.

§ 988.6 Notification, records, and reports.

(a) Air Force units conducting weather modification activities will give HQ USAF (XOO for operational activities and RDP for research and development activities):

(1) A notification 30 days before all modification activities are scheduled to begin. This notification will contain all facts relevant to meteorological and operational evaluations. As a minimum, it will consist of:

(i) The completed National Oceanic and Atmospheric Administration (NOAA) Form 17-4, Initial Report on Weather Modification Activities.

(ii) A map showing the approximate size and location of the target and control area, and the location of each item of ground-based weather modification apparatus.

(2) An interim report by January 31 of each year when modification activities were in progress at the end of the previous calendar year. Use NOAA Form 17-4A, Interim Activity Reports and Final Report.

(3) A final report within 45 days after the weather modification activity is completed. Use NOAA Form 17-4A.

(b) Only the lead agency will report the project when more than one Federal agency participates. However, all agencies must be identified.

(c) A daily log of activities will be kept for each weather modification project. this log will contain all facts relevant to meteorological and operational evaluations. See § 988.7 for further information on the daily log. Activity logs will be kept for 5 years and disposed of according to AFM 12-50, Disposition of Air Force Documentation.

§ 988.7 Daily log information.

(a) Record descriptions of the meteorological conditions in target and control areas during the periods of operation (for example, percent of cloud cover, temperature, humidity, the presence of lightning, hail, funnel clouds, heavy rain, or snow, and unusual radar patterns).

(b) Enter all measurements made of precipitation in target and control areas.

(c) Include the position of each aircraft or location of each item of weather modification apparatus during each modification mission. Maps may be used.

(d) Include for each airborne weather modification apparatus run: altitude; air speed; release points of modification agents; method of modification and characteristics of flares, rockets, or other delivery systems employed; and temperature at release altitude. For aircraft: the type of aircraft; identification number; the airport or airports used; and the names and addresses of crew members and the person responsible for operating the weather modification apparatus.

§ 988.8 Supply of forms.

NOAA Forms 17-4 and 17-4A are stocked and issued by the National Oceanic and Atmospheric Administration (RD-2), Rockville MD 20852.

PARTS 989–999 [RESERVED]

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Page

FINDING AIDS

A list of CFR titles, subtitles, chapters, subchapters and parts and an alphabetical list of agencies publishing in the CFR are included in the CFR Index and Finding Aids volume to the Code of Federal Regulations which is published separately and revised annually.

Table of CFR Titles and Chapters
Alphabetical List of Agencies Appearing in the CFR
List of CFR Sections Affected

Blank
PAGE

Table of CFR Titles and Chapters

(As of June 18, 1982)

Title 1—General Provisions

Chap.

I Administrative Committee of the Federal Register (Parts 1-49)

II Office of the Federal Register (Parts 50-299)

III Administrative Conference of the United States (Parts 300-399)

IV Miscellaneous Agencies (Parts 400-499)

Title 2—[Reserved]

Title 3—The President

Proclamations

Executive Orders

Presidential Documents Other Than Proclamations and Executive Orders

I Executive Office of the President (Parts 100-199)

Title 4—Accounts

I General Accounting Office (Parts 1-99)

II Federal Claims Collection Standards (General Accounting Office—Department of Justice) (Parts 100-299)

III General Accounting Office (CASB) (Parts 300-499)

Title 5—Administrative Personnel

I Office of Personnel Management (Parts 1-1199)

II Merit Systems Protection Board (Parts 1200-1299)

III Office of Management and Budget (Parts 1300-1399)

IV Advisory Committee on Federal Pay (Parts 1400-1499)

V The International Organizations Employees Loyalty Board (Parts 1500-1599)

VII Advisory Commission on Intergovernmental Relations (Parts 1700-1799)

IX Appalachian Regional Commission (Parts 1900-1999)

XI United States Soldiers' and Airmen's Home (Parts 2100-2199)

XIV Federal Labor Relations Authority and Federal Service Impasses Panel (Parts 2400-2499)

90-112 O—82——45

Title 5—Administrative Personnel—Continued

Chap.

XV Office of Administration, Executive Office of the President (Parts 2500-2599)

Title 6—[Reserved]

Title 7—Agriculture

SUBTITLE A—Office of the Secretary of Agriculture (Parts 0-25a)

SUBTITLE B—Regulations of the Department of Agriculture

I Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture (Parts 26-209)

II Food and Nutrition Service, Department of Agriculture (Parts 210-299)

III Animal and Plant Health Inspection Service, Department of Agriculture (Parts 300-399)

IV Federal Crop Insurance Corporation, Department of Agriculture (Parts 400-499)

V Agricultural Research Service, Department of Agriculture (Parts 500-599)

VI Soil Conservation Service, Department of Agriculture (Parts 600-699)

VII Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture (Parts 700-799)

VIII Federal Grain Inspection Service, Department of Agriculture (Parts 800-899)

IX Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture (Parts 900-999)

X Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture (Parts 1000-1199)

XI Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture (Parts 1200-1299)

XII Statistical Reporting Service (Agricultural Statistics), Department of Agriculture (Parts 1300-1399) [Reserved]

XIV Commodity Credit Corporation, Department of Agriculture (Parts 1400-1499)

XV Foreign Agricultural Service, Department of Agriculture (Parts 1500-1599)

XVI Rural Telephone Bank, Department of Agriculture (Parts 1600-1699)

XVII Rural Electrification Administration, Department of Agriculture (Parts 1700-1799)

XVIII Farmers Home Administration, Department of Agriculture (Parts 1800-2099)

XXI Foreign Economic Development Service, Department of Agriculture (Parts 2100-2199)

XXIV Board of Contract Appeals, Department of Agriculture (Parts 2400-2499)

Title 7—Agriculture—Continued

Chap.

XXV Office of the General Sales Manager, Department of Agriculture (Parts 2500-2599)

XXVI Office of the Inspector General, Department of Agriculture (Parts 2600-2699)

XXIX Office of Energy, Department of Agriculture (Parts 2900-2999)

XXX Office of Operations and Finance, Department of Agriculture (Parts 3000-3099)

XXXI Office of Environmental Quality, Department of Agriculture (Parts 3100-3199)

Title 8—Aliens and Nationality

I Immigration and Naturalization Service, Department of Justice (Parts 1-499)

Title 9—Animals and Animal Products

I Animal and Plant Health Inspection Service, Department of Agriculture (Parts 1-199)

II Packers and Stockyards Administration, Department of Agriculture (Parts 200-299)

III Food Safety and Inspection Service, Meat and Poultry Inspection, Department of Agriculture (Parts 300-399)

Title 10—Energy

I Nuclear Regulatory Commission (Parts 0-199)

II Department of Energy (Parts 200-699)

III Department of Energy (Parts 700-999)

X Department of Energy (General Provisions) (Parts 1000-1099)

XV Office of the Federal Inspector for the Alaska Natural Gas Transportation System (Parts 1500-1599)

Title 11—Federal Elections

I Federal Election Commission (Parts 1-9099)

Title 12—Banks and Banking

I Comptroller of the Currency, Department of the Treasury (Parts 1-199)

II Federal Reserve System (Parts 200-299)

III Federal Deposit Insurance Corporation (Parts 300-399)

IV Export-Import Bank of the United States (Parts 400-499)

V Federal Home Loan Bank Board (Parts 500-599)

VI Farm Credit Administration (Parts 600-699)

VII National Credit Union Administration (Parts 700-799)

VIII Federal Financing Bank (Parts 800-899)

XI Federal Financial Institutions Examination Council (Parts 1100-1199)

Title 12—Banks and Banking—Continued

Chap.

XII Depository Institutions Deregulation Committee (Parts 1200-1299)

Title 13—Business Credit and Assistance

I Small Business Administration (Parts 1-199)

III Economic Development Administration, Department of Commerce (Parts 300-399)

IV Chrysler Corporation Loan Guarantee Board (Parts 400-499)

V Regional Action Planning Commissions (Parts 500-599)

Title 14—Aeronautics and Space

I Federal Aviation Administration, Department of Transportation (Parts 1-199)

II Civil Aeronautics Board (Parts 200-399)

V National Aeronautics and Space Administration (Parts 1200-1299)

Title 15—Commerce and Foreign Trade

SUBTITLE A—Office of the Secretary of Commerce (Parts 0-19)

SUBTITLE B—Regulations Relating to Commerce and Foreign Trade

I Bureau of the Census, Department of Commerce (Parts 20-199)

II National Bureau of Standards, Department of Commerce (Parts 200-299)

III International Trade Administration, Department of Commerce (Parts 300-399)

IV Foreign-Trade Zones Board (Parts 400-499)

V United States Metric Board (Parts 500-599)

VI Bureau of Industrial Economics, Department of Commerce (Parts 600-699)

VIII Bureau of Economic Analysis, Department of Commerce (Parts 800-899)

IX National Oceanic and Atmospheric Administration, Department of Commerce (Parts 900-999)

XII United States Travel Service, Department of Commerce (Parts 1200-1299)

XIII East-West Foreign Trade Board (Parts 1300-1999)

SUBTITLE C—Regulations Relating to Foreign Trade Agreements

XX Office of the United States Trade Representative (Parts 2000-2099)

SUBTITLE D—Regulations Relating to Telecommunications and Information

XXIII National Telecommunications and Information Administration, Department of Commerce (Parts 2300-2399)

Title 16—Commercial Practices

Chap.

I Federal Trade Commission (Parts 0-999)

II Consumer Product Safety Commission (Parts 1000-1799)

Title 17—Commodity and Securities Exchanges

I Commodity Futures Trading Commission (Parts 1-199)

II Securities and Exchange Commission (Parts 200-399)

Title 18—Conservation of Power and Water Resources

I Federal Energy Regulatory Commission, Department of Energy (Parts 1-399)

III Delaware River Basin Commission (Parts 400-499)

IV Office of Water Resources Research, Department of the Interior (Parts 500-599)

VI Water Resources Council (Parts 700-799)

VIII Susquehanna River Basin Commission (Parts 800-899)

XIII Tennessee Valley Authority (Parts 1300-1399)

Title 19—Customs Duties

I United States Customs Service, Department of the Treasury (Parts 1-199)

II United States International Trade Commission (Parts 200-299)

III International Trade Administration, Department of Commerce (Parts 300-399)

Title 20—Employees' Benefits

I Office of Workers' Compensation Programs, Department of Labor (Parts 1-199)

II Railroad Retirement Board (Parts 200-399)

III Social Security Administration, Department of Health and Human Services (Parts 400-499)

IV Employees' Compensation Appeals Board, Department of Labor (Parts 500-599)

V Employment and Training Administration, Department of Labor (Parts 600-699)

VI Employment Standards Administration, Department of Labor (Parts 700-799)

VII Benefits Review Board, Department of Labor (Parts 800-899)

VIII Joint Board for the Enrollment of Actuaries (Parts 900-999)

Title 21—Food and Drugs

I Food and Drug Administration, Department of Health and Human Services (Parts 1-1299)

II Drug Enforcement Administration, Department of Justice (Parts 1300-1399)

Title 22—Foreign Relations

Chap.

I Department of State (Parts 1-199)

II Agency for International Development, International Development Cooperation Agency (Parts 200-299)

III Peace Corps (Parts 300-399)

IV International Joint Commission, United States and Canada (Parts 400-499)

V International Communication Agency (Parts 500-599)

VI United States Arms Control and Disarmament Agency (Parts 600-699)

VII Overseas Private Investment Corporation (Parts 700-799)

VIII Employee-Management Relations Commission (Parts 800-899)

IX Foreign Service Grievance Board (Parts 900-999)

X Inter-American Foundation (Parts 1000-1099)

XI International Boundary and Water Commission, United States and Mexico, United States Section (Parts 1100-1199)

XII United States International Development Cooperation Agency (Parts 1200-1299)

XIII Board for International Broadcasting (Parts 1300-1399)

XIV Foreign Service Labor Relations Board; Federal Labor Relations Authority; General Counsel of the Federal Labor Relations Authority; and the Foreign Service Impasse Disputes Panel (Parts 1400-1499)

Title 23—Highways

I Federal Highway Administration, Department of Transportation (Parts 1-999)

II National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200-1299)

Title 24—Housing and Urban Development

SUBTITLE A—Office of the Secretary, Department of Housing and Urban Development (Parts 0-99)

SUBTITLE B—Regulations Relating to Housing and Urban Development

I Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development (Parts 100-199)

II Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200-299)

III Government National Mortgage Association, Department of Housing and Urban Development (Parts 300-399)

IV Office of Assistant Secretary for Housing Management, Department of Housing and Urban Development (Parts 400-499)

V Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500-599)

Title 24—Housing and Urban Development—Continued

Chap.

VI Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 600-699)

VII New Community Development Corporation, Department of Housing and Urban Development (Parts 700-799)

VIII Low-Income Housing, Department of Housing and Urban Development (Parts 800-899)

IX Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 1700-1799)

X Solar Energy and Energy Conservation Bank, Department of Housing and Urban Development (Parts 1800-1899)

XV Mortgage Insurance and Loan Programs Under the Emergency Homeowners' Relief Act, Department of Housing and Urban Development (Parts 2700-2799)

XX Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 3200-3699)

XXV Neighborhood Reinvestment Corporation (Parts 4100-4199)

Title 25—Indians

I Bureau of Indian Affairs, Department of the Interior (Parts 1-299)

II Indian Arts and Crafts Board, Department of the Interior (Parts 300-399)

IV Navajo and Hopi Indian Relocation Commission (Parts 700-799)

Title 26—Internal Revenue

I Internal Revenue Service, Department of the Treasury (Parts 1-699)

Title 27—Alcohol, Tobacco Products and Firearms

I Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury (Parts 1-299)

Title 28—Judicial Administration

I Department of Justice (Parts 0-199)

III Federal Prison Industries, Department of Justice (Parts 300-399)

V Bureau of Prisons, Department of Justice (Parts 500-599)

Title 29—Labor

SUBTITLE A—Office of the Secretary of Labor (Parts 0-99)

SUBTITLE B—Regulations Relating to Labor

I National Labor Relations Board (Parts 100-199)

Title 29—Labor—Continued

Chap.

II Office of the Assistant Secretary for Labor-Management Relations, Department of Labor (Parts 200-299)

III National Railroad Adjustment Board (Parts 300-399)

IV Office of Labor-Management Standards Enforcement, Department of Labor (Parts 400-499)

V Wage and Hour Division, Department of Labor (Parts 500-899)

IX Construction Industry Collective Bargaining Commission (Parts 900-999)

X National Mediation Board (Parts 1200-1299)

XII Federal Mediation and Conciliation Service (Parts 1400-1499)

XIV Equal Employment Opportunity Commission (Parts 1600-1699)

XVII Occupational Safety and Health Administration, Department of Labor (Parts 1900-1999)

XX Occupational Safety and Health Review Commission (Parts 2200-2499)

XXV Pension and Welfare Benefit Programs, Department of Labor (Parts 2500-2599)

XXVI Pension Benefit Guaranty Corporation (Parts 2600-2699)

XXVII Federal Mine Safety and Health Review Commission (Parts 2700-2799)

Title 30—Mineral Resources

I Mine Safety and Health Administration, Department of Labor (Parts 1-199)

II Geological Survey, Department of the Interior (Parts 200-299)

III Board of Surface Mining and Reclamation Appeals, Department of the Interior (Parts 300-399)

VI Bureau of Mines, Department of the Interior (Parts 600-699)

VII Office of Surface Mining Reclamation and Enforcement, Department of the Interior (Parts 700-999)

Title 31—Money and Finance: Treasury

SUBTITLE A—Office of the Secretary of the Treasury (Parts 0-50)

SUBTITLE B—Regulations Relating to Money and Finance

I Monetary Offices, Department of the Treasury (Parts 51-199)

II Fiscal Service, Department of the Treasury (Parts 200-399)

IV Secret Service, Department of the Treasury (Parts 400-499)

V Office of Foreign Assets Control, Department of the Treasury (Parts 500-599)

VI Bureau of Engraving and Printing, Department of the Treasury (Parts 600-699)

VII Federal Law Enforcement Training Center, Department of the Treasury (Parts 700-799)

Title 32—National Defense

Chap.

SUBTITLE A—Department of Defense

I Office of the Secretary of Defense (Parts 1-499)

V Department of the Army (Parts 500-699)

VI Department of the Navy (Parts 700-799)

VII Department of the Air Force (Parts 800-1099)

SUBTITLE B—Other Regulations Relating to National Defense

XII Defense Logistics Agency (Parts 1200-1299)

XVI Selective Service System (Parts 1600-1699)

XIX Central Intelligence Agency (Parts 1900-1999)

XX Information Security Oversight Office (Parts 2000-2099)

XXI National Security Council (Parts 2100-2199)

XXIV Office of Science and Technology Policy (Parts 2400-2499)

XXVII Office for Micronesian Status Negotiations (Parts 2700-2799)

XXVIII Office of the Vice President of the United States (Parts 2800-2899)

Title 33—Navigation and Navigable Waters

I Coast Guard, Department of Transportation (Parts 1-199)

II Corps of Engineers, Department of the Army (Parts 200-399)

IV Saint Lawrence Seaway Development Corporation, Department of Transportation (Parts 400-499)

Title 34—Education

SUBTITLE A—Office of the Secretary, Department of Education (Parts 1-99)

SUBTITLE B—Regulations of the Offices of the Department of Education

I Office for Civil Rights, Department of Education (Parts 100-199)

II Office of Elementary and Secondary Education, Department of Education (Parts 200-299)

III Office of Special Education and Rehabilitative Services, Department of Education (Parts 300-399)

IV Office of Vocational and Adult Education, Department of Education (Parts 400-499)

V Office of Bilingual Education and Minority Languages Affairs, Department of Education (Parts 500-599)

VI Office of Postsecondary Education, Department of Education (Parts 600-699)

VII Office of Educational Research and Improvement, Department of Education (Parts 700-799)

VIII Office of Education for Overseas Dependents, Department of Education (Parts 800-899) [Reserved]

Title 35—Panama Canal

Chap.

I Panama Canal Regulations (Parts 1-299)

Title 36—Parks, Forests, and Public Property

I National Park Service, Department of the Interior (Parts 1-199)
II Forest Service, Department of Agriculture (Parts 200-299)
III Corps of Engineers, Department of the Army (Parts 300-399)
IV American Battle Monuments Commission (Parts 400-499)
V Smithsonian Institution (Parts 500-599)
VII Library of Congress (Parts 700-799)
VIII Advisory Council on Historic Preservation (Parts 800-899)
IX Pennsylvania Avenue Development Corporation (Parts 900-999)
X Commission of Fine Arts (Parts 1000-1099)
XI Architectural and Transportation Barriers Compliance Board (Parts 1100-1199)

Title 37—Patents, Trademarks, and Copyrights

I Patent and Trademark Office, Department of Commerce (Parts 1-199)
II Copyright Office, Library of Congress (Parts 200-299)
III Copyright Royalty Tribunal (Parts 300-399)

Title 38—Pensions, Bonuses, and Veterans' Relief

I Veterans Administration (Parts 0-99)

Title 39—Postal Service

I United States Postal Service (Parts 1-999)
III Postal Rate Commission (Parts 3000-3099)

Title 40—Protection of Environment

I Environmental Protection Agency (Parts 1-799)
IV Low-Emission Vehicle Certification Board (Parts 1400-1499)
V Council on Environmental Quality (Parts 1500-1599)

Title 41—Public Contracts and Property Management

SUBTITLE A—Federal Procurement Regulations System
1 Federal Procurement Regulations (Parts 1-1—1-99)
3 Department of Health and Human Services (Parts 3-1—3-99)
4 Department of Agriculture (Parts 4-1—4-99)
5 General Services Administration (Part 5-1—5-99)
5A Office of Acquisition Policy, General Services Administration (Parts 5A-1—5A-99)
5B Office of Acquisition Policy, General Services Administration (Parts 5B-1—5B-99)

Title 41—Public Contracts and Property Management—Continued

Chap.

6 Department of State (Parts 6-1—6-99)

7 Agency for International Development, International Development Cooperation Agency (Parts 7-1—7-99)

8 Veterans Administration (Parts 8-1—8-99)

9 Department of Energy (Parts 9-1—9-99)

10 Department of the Treasury (Parts 10-1—10-99)

12 Department of Transportation (Parts 12-1—12-99)

13 Department of Commerce (Parts 13-1—13-99)

14 Department of the Interior (Parts 14-1—14-99)

14H Bureau of Indian Affairs, Department of the Interior (Parts 14H-1—14H-99)

14R Office of Water Research and Technology, Department of the Interior (Parts 14R-1—14R-99)

15 Environmental Protection Agency (Parts 15-1—15-99)

16 Office of Personnel Management (Parts 16-1—16-26)

18 National Aeronautics and Space Administration (Parts 18-1—18-99)

19 International Communication Agency (Parts 19-1—19-99)

20 Nuclear Regulatory Commission (Parts 20-1—20-99)

22 Community Services Administration (Parts 22-1—22-99)

23 United States Arms Control and Disarmament Agency (Parts 23-1—23-99)

24 Department of Housing and Urban Development (Parts 24-1—24-99)

25 National Science Foundation (Parts 25-1—25-99)

28 Department of Justice (Parts 28-1—28-99)

29 Department of Labor (Parts 29-1—29-99)

34 Department of Education (Parts 34-1—34-99)

44 Federal Emergency Management Agency (Parts 44-1—44-99)

SUBTITLE B—Other Provisions Relating to Public Contracts

50 Public Contracts, Department of Labor (Parts 50-1—50-999)

51 Committee for Purchase from the Blind and Other Severely Handicapped (Parts 51-1—51-99)

60 Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Parts 60-1—60-99)

SUBTITLE C—Federal Property Management Regulations System

101 Federal Property Management Regulations (Parts 101-1—101-99)

105 General Services Administration (Parts 105-1—105-999)

109 Department of Energy, Property Management Regulations (Parts 109-1—109-99)

114 Department of the Interior (Parts 114-1—114-99)

115 Environmental Protection Agency (Parts 115-1—115-99)

128 Department of Justice (Parts 128-1—128-99)

Title 41—Public Contracts and Property Management—Continued

Chap.

SUBTITLE D—Other Provisions Relating to Property Management [Reserved]

Title 42—Public Health

I Public Health Service, Department of Health and Human Services (Parts 1-199)

III Saint Elizabeths Hospital, Department of Health and Human Services (Parts 300-399)

IV Health Care Financing Administration, Department of Health and Human Services (Parts 400-499)

Title 43—Public Lands: Interior

SUBTITLE A—Office of the Secretary of the Interior (Parts 1-199)

SUBTITLE B—Regulations Relating to Public Lands

I Bureau of Reclamation, Department of the Interior (Parts 200-499)

II Bureau of Land Management, Department of the Interior (Parts 1000-9999)

Title 44—Emergency Management and Assistance

I Federal Emergency Management Agency (Parts 0-399)

IV Department of Commerce and Department of Transportation (Parts 400-499)

Title 45—Public Welfare

SUBTITLE A—Department of Health and Human Services, General Administration (Parts 1-199)

SUBTITLE B—Regulations Relating to Public Welfare

II Office of Family Assistance (Assistance Programs), Department of Health and Human Services (Parts 200-299)

III Office of Child Support Enforcement (Child Support Enforcement Program), Department of Health and Human Services (Parts 300-399)

IV Office of Refugee Resettlement, Social Security Administration, Department of Health and Human Services (Parts 400-499)

V Foreign Claims Settlement Commission of the United States, Department of Justice (Parts 500-599)

VI National Science Foundation (Parts 600-699)

VII Commission on Civil Rights (Parts 700-799)

VIII Office of Personnel Management (Parts 800-899)

X Community Services Administration (Parts 1000-1099)

XI National Foundation on the Arts and the Humanities (Parts 1100-1199)

XII ACTION (Parts 1200-1299)

Title 45—Public Welfare—Continued

Chap.

XIII Office of Human Development Services, Department of Health and Human Services (Parts 1300-1399)

XVI Legal Services Corporation (Parts 1600-1699)

XVII National Commission on Libraries and Information Science (Parts 1700-1799)

XVIII Harry S Truman Scholarship Foundation (Parts 1800-1899)

XIX National Commission on the Observance of International Women's Year (Parts 1900-1999)

XXI Commission of Fine Arts (Parts 2100-2199)

Title 46—Shipping

I Coast Guard, Department of Transportation (Parts 1-199)

II Maritime Administration, Department of Transportation (Parts 200-399)

III Coast Guard (Great Lakes Pilotage), Department of Transportation (Parts 400-499)

IV Federal Maritime Commission (Parts 500-599)

Title 47—Telecommunication

I Federal Communications Commission (Parts 0-199)

II Office of Science and Technology Policy and National Security Council (Parts 200-299)

Title 48—[Reserved]

Title 49—Transportation

SUBTITLE A—Office of the Secretary of Transportation (Parts 1-99)

SUBTITLE B—Other Regulations Relating to Transportation

I Research and Special Programs Administration, Department of Transportation (Parts 100-199)

II Federal Railroad Administration, Department of Transportation (Parts 200-299)

III Federal Highway Administration, Department of Transportation (Parts 300-399)

IV Coast Guard, Department of Transportation (Parts 400-499)

V National Highway Traffic Safety Administration, Department of Transportation (Parts 500-599)

VI Urban Mass Transportation Administration, Department of Transportation (Parts 600-699)

VII National Railroad Passenger Corporation (AMTRAK) (Parts 700-799)

VIII National Transportation Safety Board (Parts 800-899)

IX United States Railway Association (Parts 900-999)

X Interstate Commerce Commission (Parts 1000-1399)

Title 50—Wildlife and Fisheries

Chap.

I United States Fish and Wildlife Service, Department of the Interior (Parts 1–199)

II National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 200–299)

III International Regulatory Agencies (Fishing and Whaling) (Parts 300–399)

IV Joint Regulations (United States Fish and Wildlife Service, Department of the Interior and National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce); Endangered Species Committee Regulations (Parts 400–499)

V Marine Mammal Commission (Parts 500–599)

VI Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 600–699)

CFR Index and Finding Aids

Subject/Agency Index

List of CFR Titles, Chapters, Subchapters, and Parts

Parallel Tables of Statutory Authorities and Rules

Acts Requiring Publication in the Federal Register

Alphabetical List of Agencies Appearing in the CFR

(As of June 18, 1982)

Agency	CFR Title, Subtitle or Chapter
ACTION	45, XII
Acquisition Policy, Office of	41, 5A, 5B
Administrative Committee of the Federal Register	1, I
Administrative Conference of the United States	1, III
Advisory Commission on Intergovernmental Relations	5, VII
Advisory Committee on Federal Pay	5, IV
Advisory Council on Historic Preservation	36, VIII
Agency for International Development	22, II; 41, 7
Agricultural Marketing Service	7, I, IX, X, XI
Agricultural Research Service	7, V
Agricultural Stabilization and Conservation Service	7, VII
Agriculture Department	
Agricultural Marketing Service	7, I, IX, X, XI
Agricultural Research Service	7, V
Agricultural Stabilization and Conservation Service	7, VII
Animal and Plant Health Inspection Service	7, III; 9, I, III
Commodity Credit Corporation	7, XIV
Contract Appeals, Board of	7, XXIV
Energy, Office of	7, XXIX
Environmental Quality, Office of	7, XXXI
Farmers Home Administration	7, XVIII
Federal Crop Insurance Corporation	7, IV
Federal Grain Inspection Service	7, VIII
Federal Procurement Regulations System	41, 4
Food and Nutrition Service	7, II
Food Safety and Inspection Service	9, III
Foreign Agricultural Service	7, XV
Foreign Economic Development Service	7, XXI
Forest Service	36, II
General Sales Manager, Office of	7, XXV
Inspector General, Office of	7, XXVI
Operations and Finance, Office of	7, XXX
Packers and Stockyards Administration	9, II
Rural Electrification Administration	7, XVII
Rural Telephone Bank	7, XVI
Secretary of Agriculture, Office of	7, Subtitle A
Soil Conservation Service	7, VI
Air Force Department	32, VII
Alaska Natural Gas Transportation System, Office of the Federal Inspector	10, XV
Alcohol, Tobacco and Firearms, Bureau of	27, I
AMTRAK	49, VII
American Battle Monuments Commission	36, IV
Animal and Plant Health Inspection Service	7, III; 9, I
Appalachian Regional Commission	5, IX
Architectural and Transportation Barriers Compliance Board	36, XI
Arms Control and Disarmament Agency, U.S.	22, VI; 41, 23
Army Department	32, V
Engineers, Corps of	33, II; 36, III
Benefits Review Board	20, VII

Agency	CFR Title, Subtitle or Chapter
Bilingual Education and Minority Languages Affairs, Office of	34, V
Blind and Other Severely Handicapped, Committee for Purchase from	41, 51
Board for International Broadcasting	22, XIII
Budget, Office of Management and	5, III
Census Bureau	15, I
Central Intelligence Agency	32, XIX
Child Support Enforcement, Office of	45, III
Chrysler Corporation Loan Guarantee Board	13, IV
Civil Aeronautics Board	14, II
Civil Rights Commission	45, VII
Civil Rights, Office for (Education Department)	34, I
Claims Collection Standards, Federal	4, II
Coast Guard	33, I; 46, I, III; 49, IV
Commerce Department	
Census Bureau	15, I
Economic Analysis, Bureau of	15, VIII
Economic Development Administration	13, III
Endangered Species Committee	50, IV
Federal Procurement Regulations System	41, 13
Fishery Conservation and Management	50, VI
Industrial Economics, Bureau of	15, VI
International Trade Administration	15, III; 19, III
National Bureau of Standards	15, II
National Defense	44, IV
National Marine Fisheries Service	50, II, IV
National Oceanic and Atmospheric Administration	15, IX; 50, II, IV
National Telecommunications and Information Administration	15, XXIII
Patent and Trademark Office	37, I
Secretary of Commerce, Office of	15, Subtitle A
United States Travel Service	15, XII
Commission on the Review of the National Policy Toward Gambling	1, IV
Committee for Purchase from Blind and Other Severely Handicapped	41, 51
Commodity Credit Corporation	7, XIV
Commodity Futures Trading Commission	17, I
Community Planning and Development, Office of Assistant Secretary for	24, V, VI
Community Services Administration	41, 22; 45, X
Comptroller of the Currency	12, I
Construction Industry Collective Bargaining Commission	29, IX
Consumer Product Safety Commission	16, II
Contract Appeals, Board of	7, XXIV
Copyright Office	37, II
Copyright Royalty Tribunal	37, III
Council on Environmental Quality	40, V
Customs Service, United States	19, I
Defense Department	32, Subtitle A
Air Force Department	32, VII
Army Department	32, V; 33, II; 36, III
Defense Civil Preparedness Agency	32, XVIII
Engineers, Corps of	33, II; 36, III
Navy Department	32, VI
Secretary of Defense, Office of	32, I
Defense Logistics Agency	32, XII
Defense Manpower Commission	1, IV
Delaware River Basin Commission	18, III
Depository Institutions Deregulation Committee	12, XII
Drug Enforcement Administration	21, II
East-West Foreign Trade Board	15, XIII
Economic Analysis, Bureau of	15, VIII
Economic Development Administration	13, III
Education, Department of	

Agency	CFR Title, Subtitle or Chapter
Bilingual Education and Minority Languages Affairs, Office of	34, V
Civil Rights, Office for	34, I
Education for Overseas Dependents, Office of	34, VIII
Educational Research and Improvement, Office of	34, VII
Elementary and Secondary Education, Office of	34, II
Federal Procurement Regulations System	41, 34
Postsecondary Education, Office of	34, VI
Secretary of Education, Office of	34, Subtitle A
Special Education and Rehabilitative Services, Office of	34, III
Vocational and Adult Education, Office of	34, IV
Education for Overseas Dependents, Office of	34, VIII
Educational Research and Improvement, Office of	34, VII
Elementary and Secondary Education, Office of	34, II
Employee Benefits Security, Office of	29, XXV
Employee-Management Relations Commission	22, VIII
Employees' Compensation Appeals Board	20, IV
Employees Loyalty Board, International Organizations	5, V
Employment and Training Administration	20, V
Employment Standards Administration	20, VI
Endangered Species Committee	50, IV
Energy, Department of	10, II, III, X; 41, 109
Federal Energy Regulatory Commission	18, I
Federal Procurement Regulations System	41, 9
Energy, Office of, Department of Agriculture	7, XXIX
Engineers, Corps of	33, II; 36, III
Engraving and Printing, Bureau of	31, VI
Environmental Protection Agency	40, I; 41, 15, 115
Environmental Quality, Office of (Agriculture Department)	7, XXXI
Equal Employment Opportunity	41, 60
Equal Employment Opportunity Commission	29, XIV
Equal Opportunity, Office of Assistant Secretary for	24, I
Executive Office of the President	3, I
Administration, Office of	5, XV
Export-Import Bank of the United States	12, IV
Family Assistance, Office of	45, II
Farm Credit Administration	12, VI
Farmers Home Administration	7, XVIII
Federal Aviation Administration	14, I
Federal Claims Collection Standards	4, II
Federal Communications Commission	47, I
Federal Contract Compliance, Office of	41, 60
Federal Crop Insurance Corporation	7, IV
Federal Deposit Insurance Corporation	12, III
Federal Election Commission	11, I
Federal Emergency Management Agency	41, 44; 44, I
Federal Energy Regulatory Commission	18, I
Federal Financial Institutions Examination Council	12, XI
Federal Financing Bank	12, VIII
Federal Grain Inspection Service	7, VIII
Federal Highway Administration	23, I, II; 49, III
Federal Home Loan Bank Board	12, V
Federal Inspector for the Alaska Natural Gas Transportation System, Office of	10, XV
Federal Labor Relations Authority, and General Counsel of the Federal Labor Relations Authority	5, XIV; 22,XIV
Federal Law Enforcement Training Center	31, VII
Federal Maritime Commission	46, IV
Federal Mediation and Conciliation Service	29, XII
Federal Mine Safety and Health Review Commission	29, XXVII
Federal Pay, Advisory Committee on	5, IV
Federal Prison Industries	28, III
Federal Procurement Regulations	41, I
Federal Procurement Regulations System	41, Subtitle A
Federal Property Management Regulations	41, 101
Federal Property Management Regulations System	41, Subtitle C

90-112 O—82——46

Agency	CFR Title, Subtitle or Chapter
Federal Railroad Administration	49, II
Federal Register, Administrative Committee of	1, I
Federal Register, Office of	1, II
Federal Reserve System	12, II
Federal Services Impasses Panel	5, XIV
Federal Trade Commission	16, I
Fine Arts Commission	36, X; 45, XXI
Fiscal Service	31, II
Fish and Wildlife Service, United States	50, I, IV
Fishery Conservation and Management	50, VI
Fishing and Whaling, International Regulatory Agencies	50, III
Food and Drug Administration	21, I
Food and Nutrition Service	7, II
Food Safety and Inspection Service	9, III
Foreign Agricultural Service	7, XV
Foreign Assets Control, Office of	31, V
Foreign Claims Settlement Commission of United States	45, V
Foreign Economic Development Service	7, XXI
Foreign Service Grievance Board	22, IX
Foreign Service Impasse Disputes Panel	22, XIV
Foreign Service Labor Relations Board	22, XIV
Foreign-Trade Zones Board	15, IV
Forest Service	36, II
General Accounting Office	4, I, II, III
General Sales Manager, Office of	7, XXV
General Services Administration	41, 5
Acquisition Policy, Office of	41, 5A, 5B
Federal Procurement Regulations System	41, 1, 5A, 5B
Federal Property Management Regulations System	41, 101, 105
Geological Survey	30, II
Government National Mortgage Association	24, III
Great Lakes Pilotage	46, III
Harry S Truman Scholarship Foundation	45, XVIII
Health and Human Services, Department of	45, Subtitle A
Child Support Enforcement, Office of	45, III
Family Assistance, Office of	45, II
Federal Procurement Regulations System	41, 3
Food and Drug Administration	21, I
Harry S Truman Scholarship Foundation	45, XVIII
Health Care Financing Administration	42, IV
Human Development Office	45, XIII
Public Health Service	42, I
Refugee Resettlement, Office of	45, IV
St. Elizabeths Hospital	42, III
Social Security Administration	20, III; 45, IV
Health Care Financing Administration	42, IV
Housing and Urban Development, Department of	
Community Planning and Development, Office of Assistant Secretary for	24, V, VI
Equal Opportunity, Office of Assistant Secretary for	24, I
Federal Procurement Regulations System	41, 24
Government National Mortgage Association	24, III
Housing—Federal Housing Commissioner, Office of Assistant Secretary for	24, II, IX, XX
Housing Management, Office of Assistant Secretary for	24, IV
Low-Income Housing	24, VIII
Mortgage Insurance and Loan Programs Under Emergency Homeowners' Relief Act	24, XV
New Community Development Corporation	24, VII
Secretary, Office of	24, Subtitle A
Solar Energy and Energy Conservation Bank	24, X
Housing—Federal Housing Commissioner, Office of Assistant Secretary for	24, II, IX, XX
Housing Management, Office of Assistant Secretary for	24, IV
Human Development Services Office	45, XIII
Immigration and Naturalization Service	8, I

Agency	CFR Title, Subtitle or Chapter
Indian Affairs, Bureau of	25, I; 41, 14H
Indian Arts and Crafts Board	25, II
Industrial Economics, Bureau of, Commerce Department	15, VI
Information Agency, United States	22, V; 41, 19
Information Security Oversight Office	32, XX
Inspector General, Office of, Agriculture Department	7, XXVI
Inter-American Foundation	22, X
Intergovernmental Relations, Advisory Commission on	5, VII
Interior Department	
Endangered Species Committee	50, IV
Federal Procurement Regulations System	41, 14
Federal Property Management Regulations System	41, 114
Fish and Wildlife Service, United States	50, I, IV
Geological Survey	30, II
Indian Affairs, Bureau of	25, I; 41, 14H
Indian Arts and Crafts Board	25, II
Land Management Bureau	43, II
Mines, Bureau of	30, VI
National Park Service	36, I
Reclamation Bureau	43, I
Secretary of the Interior, Office of	43, Subtitle A
Surface Mining and Reclamation Appeals, Board of	30, III
Surface Mining Reclamation and Enforcement, Office of	30, VII
United States Fish and Wildlife Service	50, I, IV
Water Research and Technology, Office of	41, 14R
Water Resources Research, Office of	18, IV
Internal Revenue Service	26, I
International Boundary and Water Commission, United States and Mexico	22, XI
International Communication Agency	22, V; 41, 19
International Development, Agency for	22, II; 41, 7
International Development Cooperation Agency	22, II; 41, 7
International Joint Commission, United States and Canada	22, IV
International Organizations Employees Loyalty Board	5, V
International Regulatory Agencies (Fishing and Whaling)	50, III
International Trade Administration	15, III; 19, III
International Trade Commission, United States	19, II
Interstate Commerce Commission	49, X
Joint Board for the Enrollment of Actuaries	20, VIII
Justice Department	28, I; 41, 128
Drug Enforcement Administration	21, II
Federal Claims Collection Standards	4, II
Federal Prison Industries	28, III
Federal Procurement Regulations System	41, 28
Foreign Claims Settlement Commission of the United States	45, V
Immigration and Naturalization Service	8, I
Prisons, Bureau of	28, V
Labor Department	
Benefits Review Board	20, VII
Employees' Compensation Appeals Board	20, IV
Employment and Training Administration	20, V
Employment Standards Administration	20, VI
Federal Contract Compliance, Office of	41, 60
Federal Procurement Regulations System	41, 29, 50
Labor-Management Relations, Office of the Assistant Secretary	29, II
Labor-Management Standards Enforcement, Office of	29, IV
Mine Safety and Health Administration	30, I
Occupational Safety and Health Administration	29, XVII
Pension and Welfare Benefit Programs	29, XXV
Public Contracts	41, 50
Secretary of Labor, Office of	29, Subtitle A
Wage and Hour Division	29, V
Workers' Compensation Programs, Office of	20, I
Labor-Management Relations, Office of Assistant Secretary	29, II

Agency	CFR Title, Subtitle or Chapter
Labor-Management Standards Enforcement, Office of	29, IV
Land Management, Bureau of	43, II
Legal Services Corporation	45, XVI
Library of Congress	36, VII
Copyright Office	37, II
Low-Emission Vehicle Certification Board	40, IV
Low-Income Housing, Department of Housing and Urban Development	24, VIII
Management and Budget, Office of	5, III
Marine Mammal Commission	50, V
Maritime Administration	46, II
Merit Systems Protection Board	5, II
Micronesian Status Negotiations, Office for	32, XXVII
Mine Safety and Health Administration	30, I
Mines, Bureau of	30, VI
Miscellaneous Agencies	1, IV
Monetary Offices	31, I
Mortgage Insurance and Loan Programs Under the Emergency Homeowners' Relief Act, Department of Housing and Urban Development	24, XV
National Aeronautics and Space Administration	14, V; 41, 18
National Bureau of Standards	15, II
National Commission on Libraries and Information Science	45, XVII
National Commission on the Observance of International Women's Year	45, XIX
National Credit Union Administration	12, VII
National Foundation on the Arts and the Humanities	45, XI
National Highway Traffic Safety Administration	23, II; 49, V
National Labor Relations Board	29, I
National Marine Fisheries Service	50, II, IV
National Mediation Board	29, X
National Oceanic and Atmospheric Administration	15, IX; 50, II, VI
National Park Service	36, I
National Railroad Adjustment Board	
National Railroad Passenger Corporation (AMTRAK)	49, VII
National Science Foundation	45, VI; 41, 25
National Security Council	32, XXI
National Security Council and Office of Science and Technology Policy	47, II
National Telecommunications and Information Administration	15, XXIII
National Transportation Safety Board	49, VIII
Navajo and Hopi Indian Relocation Commission	25, IV
Navy Department	32, VI
Neighborhood Reinvestment Corporation	24, XXV
New Community Development Corporation	24, VII
Nuclear Regulatory Commission	10, I; 41, 20
Occupational Safety and Health Administration	29, XVII
Occupational Safety and Health Review Commission	29, XX
Overseas Private Investment Corporation	22, VII
Packers and Stockyards Administration	9, II
Panama Canal Regulations	35, I
Patent and Trademark Office	37, I
Peace Corps	22, III
Pennsylvania Avenue Development Corporation	36, IX
Pension Benefit Guaranty Corporation	29, XXVI
Pension and Welfare Benefit Programs, Department of Labor	29, XXV
Personnel Management, Office of	5, I; 41, 16; 45, VIII
Postal Rate Commission	39, III
Postal Service, United States	39, I
Postsecondary Education, Office of	34, VI
President's Commission on White House Fellowships	1, IV
Presidential Documents	3
Prisons, Bureau of	28, V
Privacy Protection Study Commission	1, IV

Agency	CFR Title, Subtitle or Chapter
Procurement Regulations System, Federal	41, Subtitle A
Property Management Regulations System, Federal	41, Subtitle C
Public Contracts, Department of Labor	41, 50
Public Health Service	42, I
Railroad Retirement Board	20, II
Railway Association, United States	49, IX
Reclamation Bureau	43, I
Refugee Resettlement, Office of	45, IV
Regional Action Planning Commissions	13, V
Research and Special Programs Administration	49, I
Rural Electrification Administration	7, XVII
Rural Telephone Bank	7, XVI
Saint Elizabeths Hospital	42, III
Saint Lawrence Seaway Development Corporation	33, IV
Science and Technology Policy, Office of	32, XXIV
Science and Technology Policy, Office of, and National Security Council	47, II
Secret Service	31, IV
Securities and Exchange Commission	17, II
Selective Service System	32, XVI
Small Business Administration	13, I
Smithsonian Institution	36, V
Social Security Administration	20, III; 45, IV
Soil Conservation Service	7, VI
Solar Energy and Energy Conservation Bank, Department of HUD	24, X
Soldiers' and Airmen's Home, United States	5, XI
Special Education and Rehabilitative Services, Office of	34, III
Special Representative for Trade Negotiations, Office of	15, XX
State Department	22, I
Federal Procurement Regulations System	41, 6
Surface Mining and Reclamation Appeals, Board of	30,III
Susquehanna River Basin Commission	18, VIII
Tennessee Valley Authority	18, XIII
Trade Representative, United States, Office of	15, XX
Transportation, Department of	
Coast Guard	33, I; 46, I, III; 49, IV
Federal Aviation Administration	14, I
Federal Highway Administration	23, I, II; 49, III
Federal Procurement Regulations System	41, 12
Federal Railroad Administration	49, II
Highway Safety Program Standards	23, II
Maritime Administration	46, II
National Defense	44, IV
National Highway Traffic Safety Administration	23, II; 49, V
Research and Science Programs Administration	49, I
Saint Lawrence Seaway Development Corporation	33, IV
Secretary, Office of	49, Subtitle A
Urban Mass Transportation Administration	49, VI
Travel Service, United States	15, XII
Treasury Department	
Alcohol, Tobacco and Firearms, Bureau of	27, I
Comptroller of the Currency	12, I
Customs Service, United States	19, I
Engraving and Printing, Bureau of	31, VI
Federal Law Enforcement Training Center	31, VII
Federal Procurement Regulations System	41, 10
Fiscal Service	31, II
Foreign Assets Control, Office of	31, V
Internal Revenue Service	26, I
Monetary Offices	31, I
Secret Service	31, IV
Secretary of the Treasury, Office of	31, Subtitle A
Truman, Harry S, Scholarship Foundation	45, XVIII
United States and Canada, International Joint Commission	22, IV
United States Arms Control and Disarmament Agency	22, VI; 41, 23

Agency	CFR Title, Subtitle or Chapter
United States Customs Service	19, I
United States Fish and Wildlife Service	50, I, IV
United States International Development Cooperation Agency	22, XII
United States International Trade Commission	19, II
United States Metric Board	15, V
United States Postal Service	39, I
United States Railway Association	49, IX
United States Soldiers' and Airmen's Home	5, XI
United States Trade Representative, Office of	15, XX
United States Travel Service	15, XII
Urban Mass Transportation Administration	49, VI
Veterans Administration	38, I; 41, 8
Vice President of the United States, Office of	32, XXVIII
Vocational and Adult Education, Office of	34, IV
Wage and Hour Division	29, V
Water Research and Technology, Office of	41, 14R
Water Resources Council	18, VI
Water Resources Research, Office of	18, IV
Welfare-Pension Reports, Office of Labor-Management and	29, IV
Workers' Compensation Programs, Office of	20, I

List of CFR Sections Affected

All changes in this volume of the Code of Federal Regulations which were made by documents published in the FEDERAL REGISTER since January 1, 1973, are enumerated in the following list. Entries indicate the nature of the changes effected. Page numbers refer to Federal Register pages. The user should consult the entries for chapters and parts as well as sections for revisions.

For the period before January 1, 1973, see the "List of CFR Sections Affected, 1949-1963 and 1964-1972," published in three separate volumes.

1973

32 CFR — 38 FR Page

Chapter VII

804 Revised 6761
806a.0 Revised 6995
806a.1 (b) revised 6995
806a.2 Revised 6995
806a.3 (a)(1) removed; (a)(2) and (3) redesignated as (a)(1) and (2); (c)(3) added 6995
806a.4 Revised 6995
806a.5 Amended 6996
806a.6 Table amended 6996
806a.7 Added 6996
807.1 (b) and (c) revised; (e) removed 973
807.2 (a), (b) (1) and (2) removed 973
809 Revised 973
809.4 (b), (f)(2), and (f)(5)(ii)(C) note revised; (n) and (o) added 10934
809.7 Table amended 10934
809.10 (a) amended 10935
809.11 Redesignated as 809.12; new 809.11 added 10935
(d)(2) introductory text and (d)(2)(iii)(D) corrected 13485
809.12 Redesignated from 809.11; note revised (former 809.12 redesignated as 809.14) 10935, 10936
809.13 Redesignated as 809.17; new 809.13 added 10935, 10936
809.14 Redesignated from 809.12 10935
809.15 Added 10937
809.16 Added 10937

32 CFR—Continued — 38 FR Page

Chapter VII—Continued

809.17 Redesignated from 809.13 10935
809.23 Redesignated as 809.24; new 809.23 added 10937
809.24 Redesignated from 809.23 10937
809.62 (k) added 10937
809.63 Redesignated as 809.64; new 809.63 added 10937
809.64 Redesignated from 809.63 10937
809.65 Added 10937
809.66 Added 10938
809.67 Added 10938
809.68 Added 10938
809.69 Added 10938
809.70 Added 10938
809.71 Added 10938
Table corrected 13485
809b.0 Revised 981
809b.6 (f) and (k) revised 981
809b.8 (a)(2) and (b)(3)(iii) revised 981
811 Revised 982
811a Added 983
812.1 Revised 14374
812.13 Revised 14374
813 Revised 6768
814a Removed 6893
815.10-815.12 (Subpart B) heading revised 14829
815.12 Heading revised 14829
815.40 (d) added 14829
815.73 (a), (b), and (c)(1) corrected 9017
815.75 (i) amended 14829
815.85 (a) amended; (b) revised 14829
823 Revised 5632

32 CFR—Continued

Chapter VII—Continued

	38 FR Page
852 Removed	4670
860.4 (d) and (e) corrected	13561
872.1 Revised	984
872.2 (e), (j), and (k) revised; (m) added	984
872.3 Revised	984
872.5 Revised	984
872.7 Revised	984
872.8 Introductory text, (a), and (b) revised	984
872.9 Revised	984
872.10 (b) revised	984
872.11 Revised	985
872.12 Heading and (e) revised	985
872.14 (b) and (c) revised	985
872.16 Revised	985
872.17 Revised	985
872.18 Revised	985
872.19 Revised	985
872.20 Revised	985
872.21 (a) revised	986
872.25 Revised	986
872.26 Revised	986
872.27 Added	986
872.28 Added	986
873 Revised	9165
881.21 (c) amended	10720
881.22 (b) revised; (c) amended	10720
881.23 (a) revised	10720
888 Revised	6770
888.7 (c) corrected	8155
888.27 (b) corrected	8155
888a.0 Revised	6778
888a.1 (b) and (c) revised; (d) removed	6778
888a.10 (a) amended; (b) removed	6778
888a.11 (f) and (g) added	6778
888a.12 (b) amended; (e) and (f) added	6778
888a.13 (b) and note amended; (b)(3) redesignated as (b)(4); new (b)(3) added	6778
888a.14 Revised	6778
888a.15 (a) amended; (b) removed	6778
888a.20 (a) amended; (b) removed	6778
888a.21 Introductory text amended; (f) and (g) added	6778
888a.23 (a), (b), and note amended; (b)(3) redesignated as (b)(4); new (b) (3) added	6778
888a.24 Revised	6779
888a.25 (a) amended; (b) removed	6779

32 CFR—Continued

Chapter VII—Continued

	38 FR Page
888a.26 (a) revised	6779
888a.35 Revised	6779
888a.36 Revised	6779
888b Revised	6779
888b.16 Table corrected	8254
888b.18 Table corrected	8254
888b.22 (bb), (cc) and (dd) correctly designated as (ab), (ac), and (ad)	8254
888c Revised	6784
888c.26 Corrected	8155
888f Added	6793
888f.6 Table corrected	8254
889 Revised	986
890.1 Revised	989
890.4 Heading and (a) revised	989
890.8 Added	989
891 Removed	6794
901.9 Correctly designated as 901a.9	8254
901.10 Correctly designated as 901a.10	8254
901a Added	6794
901a.9 Correctly designated from 901.9	8254
901a.10 Correctly designated from 901.10	8254
901b Added	6797
905.0 Revised	990
905.6 Amended	990
905.8 Amended	990
905.10 Revised	990
905.13 Added	990
905.24 (c) and (d) added	990
907.1 Revised	991
907.2 Amended	991
907.3 (a)(1) amended; (a)(2), (b)(4) and (5) revised	991
907.4 (a) revised; (d) removed	991
935–999 (Subchapter N) heading revised	3962
940 Added	3962

1973–1974

(Regulations published from July 1, 1973 through June 30, 1974)

32 CFR

Chapter VII

	38 (39*) FR Page
802 Removed	26190
806.15 Amended	26190
809.4 (f)(6)(ii) note removed; (h) revised; (1), (2), (3), and (4) added	23946

32 CFR—Continued

38 (39*) FR Page

Chapter VII—Continued

809.7 Table amended 23946
Corrected 25678
809.10 (a) and (g) revised; (h) and (i) added 23946
809.11 (d)(2)(iii)(f) added; (d)(6) revised 23947
809.13 (d)(5) revised 23947
809.14 Introductory text and (a) revised 23947
809.15 (b) (3) and (4) revised; (b) (5) and (6) added 23947
809.16 (a) revised 23947
809.61 (b) revised 23947
809.62 (a) and (c) revised; (b) added 23947
809c Revised *10560
818b Added 26801
855 Revised *10124
865.12 (a)(5) added 30739
870 Revised 21147
870.38 (b)(3)(iv) corrected 21746
870.40 Corrected 21746
870.86 Corrected 21746
872.2 (a) and heading of (h) revised *5485
872.3 Amended *5485
872.7 Introductory text amended *5485
872.8 Introductory text and (b) amended; (c), (d), and (h) revised *5485
872.10 Revised *5486
872.11 Revised *5486
872.12 (b) revised *5486
872.14 Heading and introductory text revised; (d) added *5486
872.17 (a)(2)(ii) revised; (b) amended *5486
872.19 Revised *5486
872.20 Heading revised *5486
872.24 Revised *5486
872.26 Revised *5486
872.28 Redesignated as 872.29; new 872.28 added *5487
872.29 Redesignated from 872.28 ..... *5487
872.30 Added *5487
881 Revised 26891
881.22 (d)(4) correctly designated from (d)(5) 28936
(d)(5) correctly designated as (d)(4) 28936
881.30 (a) introductory text and (a)(14) and (22) corrected 28936

32 CFR—Continued

38 (39*) FR Page

Chapter VII—Continued

881.32 (b)(2)(iii) corrected 28936
881.34 Table corrected 28936
881.50 (c) corrected 28936
881.53 (d) corrected 28936
881.83 Added 28937
883 Added 26802
883.3 (a)(3) corrected 27523
886.1 Existing text designated as (a); (b) added 20325
886.2 Revised 20325
886.4 Revised 20325
886.5 Revised 20325
886.6 Revised 20325
886.7 Revised 20325
886.8 Revised 20326
886.11 Added 20326
886.12 Revised 20326
886.13 Revised 20326
886.14 Revised 20326
888 Revised 31421
888.5 Amended *6607
888.6 (a)(4)(i) amended; (d)(3) removed; (d)(4) redesignated as (d)(3) *6607
888d.6 Amended *4477
888d.12 Revised *4477
888d.14 (b) and (c) revised *4477
888d.16 Added *4477
888d.18 Added *4478
888d.20 Added *4478
901 Redesignated from 901a 22471
901.6b Added 22471
901.13 (a)(2) added 22471
901a Redesignated as 901 22471
901b Removed 22471
903 Added 22471
920.0 Revised *22264
920.5 (e) added *22264
920.8 (a) amended *22264
920.9 (b) and (c) amended *22264
920.10 Introductory text revised *22264
920.13 (c) amended *22264
920.19 (e) and (f) amended *22264
920.20 (b)(1) revised *22264
920.22 [1] (g) amended *22264
920.23 (b)(14) revised *22264

NOTE: Asterisk (*) identifies changes published in 1974.

[1] Correctly designated § 920.21 at 39 FR 24361, July 2, 1974.

1974–1975

(Regulations published from July 1, 1974 through June 30, 1975)

32 CFR	39 (40†) FR Page
Chapter VII	
806 Revised	† 7901
806.25 (b) corrected	† 17841
806.29 Corrected	†17841
806.33 (a)(3) corrected	†17841
806.57 (d)(2) corrected	†17841
807.1 (c) revised	33797
807.3 Added	33798
812.3 (b)(1) revised; (b) (10) and (11) added	†7407
812.4 Revised	†7408
835 Removed	32986
851 Revised	†7908
856 Revised	†14758
870 Revised	†3555
872.8 (a) and (b) amended	36010
872.9 (b) revised	36010
872.10 Revised	36010
872.11 (b) revised	36010
872.12 (g) revised	36010
872.14 (c) revised	36010
880.0 (b) and (c) amended	†6499
880.2 (f), (g), and (k) amended; (i) revised; (m), (n), (o), and (p) added	†6499
880.4 (b), (c), (e), (f), amended; (d) revised	†6499
880.6 (c) amended; (d) added	†6500
880.8 (a) revised; (f) added	†6500
880.10 Revised	†6500
880.12 Revised	†6500
880.14 Revised	†6500
880.16 (a) amended	†6500
880.18 (c)(2) amended	†6500
881.11 (h) revised	†5362
881.16 Revised	†5362
881.22 (b) revised	†5362
881.23 (a) amended	†5362
881.34 Revised	†5362
881.53 (c)(1) amended	†5363
881.61 Removed	†5363
881.67 (a)(1) (iii) revised	†5363
881.72 (b) revised	†5363
888 Heading amended	33523
888.1 (h) revised	33523
888.6 (b)(14) and (15) and Note 4 added; Note 2 revised	33523

NOTE: Symbol (†) refers to 1975 page numbers.

32 CFR—Continued	39 (40†) FR Page
Chapter VII—Continued	
888.7 (c) and (d) redesignated as (e) and (f); (b)(4) and (5) and new (f) revised; (d) added; (c) removed	33523
888.12 (b) revised	33523
888.15 (g) revised	33523
888.21 Revised	33523
888.23 (a) and (b)(1) revised	33524
888.50–888.67 (Subpart B) added	33524
888b Removed	33526
888c.8 (a) and (b) amended	†10984
888c.10 (c)(1) and (2) amended	†10984
888c.12 Introductory text of (a), (a)(3), and (d) amended	†10984
888c.14 (a) amended	†10984
888c.20 Amended	†10984
888c.22 Amended	†10984
888c.28 Amended	†10984
888e Technical correction	†8556
888e.4 Amended	†7912
888e.12 Revised	†7912
888e.14 (b) amended; note revised	†7913
888.20 Revised	†7913
888.22 Introductory text note, and (a) revised	†7913
888e.24 (f) amended	†7913
Technical correction	8556
888e.26 Revised	†7913
888e.32Amended	†7913
888e.34 Amended	†7913
888e.38 Amended	†7913
888e.42 Revised	†7913
888e.44 Amended	†7914
888e.50 Amended	†7914
888e.60—888e.72 (Subpart F) removed	†7914
889.3a Added	†8346
889.6 (d) added	†8346
889.7 (a)(2)(ii) and (c)(ii) notes added; (b) revised; (d) and (e) added	†8346
889.8 (b) revised	†8347
889.9 (g) removed	†8347
920.21 Correctly designated from § 920.22	24361
920.22 Correctly designated as § 920.21	24361
930 Revised	†10984
(Subchapter O Parts 950—955) Established	34410
950—955 Added	33410

1975–1976

(Regulations published from July 1, 1975 through June 30, 1976)

32 CFR — 40 (41Δ) FR Page

Chapter VII

806b Added 55580
806b.58 (k) added Δ17549
820 Revised Δ1906
850 Added Δ26867

1976–1977

(Regulations published from July 1, 1976 through June 30, 1977)

32 CFR — 41 (42°) FR Page

Chapter VII

806b.18 Revised ..... °21776
806b.22 Removed ..... °21777
806b.58 (l) added ..... °5696
807.1 (c)(1) amended; (c)(2) removed; new (c)(2) and (3) added 47426
807.3 (b) revised 47427
825 Revised 31813
832.1—832.6 Existing text designated as Subpart A 34951
832.10—832.16 (Subpart B) added 34951
832.20–832.29 (Subpart C) added 46599
842.1 (a)(1), (f)(1) introductory text and (f)(1)(ii) revised 50420
(c) amended 50446
842.2 Revised 50420
842.4 Revised 50421
842.5 Revised 50421
842.6 (b) introductory text, (b)(2) revised; (b)(3) added 50421
842.7 (a) revised 50421
842.8 Added 50421
842.10–842.13 Revised 50422
842.14 Added 50422
842.15 Added 50423
842.22–842.23 Revised 50423
842.24 Revised 50425
842.25–842.30 Revised 50426
842.31 Revised 50427
842.32 Added 50427
842.41 Revised 50427
842.42 Revised 50427
842.43 Revised 50428
842.44 (d) amended 50429

NOTE: Symbol (Δ) refers to 1976 page numbers.
NOTE: Symbol (°) refers to 1977 page numbers.

32 CFR—Continued — 41 (42°) FR Page

Chapter VII—Continued

842.45 Revised 50429
842.46 Revised 50429
842.47 Revised 50429
842.49 Added 50429
842.52 (b)(1) amended; (d) added 50430
842.53 Table amended 50430
Note 2 amended 50446
842.54 Revised 50430
842.61 (a)(2) amended; (b) and (c) revised; (d) added 50431
842.64 Revised 50432
842.65 (b) added 50432
842.66 (b) amended 50432
842.67 Revised 50432
842.68 Heading and (a) (1) and (2) revised; (a)(3) and (b) amended; (c) added 50433
(b) amended 50446
842.69 Revised 50433
842.72 (a) introductory text, (a)(2), (a)(2)(i), (b)(3) and (c) revised 50433
842.73 (b) amended 50433
842.74 (a) amended; (b) through (e) redesignated as (c) through (f); new (b) added; (d) revised 50434
842.76 (a)(5)(iv)(b) amended 50434
842.80–842.83 (Subpart G) heading revised 50434
842.80 Revised 50434
842.81 Revised 50434
842.83 (b)(1)(ii) through (v) and (2) revised; (b)(3) and (c) added 50434
842.84 Added 50434
842.91–842.94 Revised 50434
842.95–842.99E Added 50435
842.101 Revised 50436
842.102 Revised 50436
842.103 Introductory text; (a) and (b) revised; (e) added 50436
842.104 (a) removed; (b) through (o) redesignated as (a) through (o); (h) amended; (p) and (q) added 50436
842.105 Removed; new 842.105 redesignated from 842.106; (a)(4) added; (b) revised 50437
842.106 Redesignated as 842.105; new 842.106 redesignated from 842.107 and revised 50437

32 CFR—Continued 41 (42*) FR Page

Chapter VII—Continued

842.107 Redesignated as 842.106 and revised; new 842.107 redesignated from 842.108.....50437
842.108 Redesignated as 842.107; new 842.108 redesignated from 842.109 and revised.....50437
842.109 Redesignated as 842.108; new 842.109 redesignated from 842.110 and revised.....50437
842.110 Redesignated as 842.109; new 842.110 redesignated from 842.111 and revised.....50437
842.111 Redesignated as 842.110 and revised; new 842.111 added.....50437
842.112 Added.....50438
842.121-842.123 Revised.....50439
842.124-842.127 Added.....50439
842.130-842.132 Revised.....50440
842.133 Added.....50440
842.134 Added.....50441
842.135 Added.....50441
842.140 Revised.....50441
842.141 (a) and (c)(1), (3) and (4) revised.....50441
842.143 Revised.....50441
842.144 Revised.....50441
842.145 Revised.....50442
842.146 Revised.....50442
842.147 Added.....50442
842.148 Added.....50442
842.151-842.154 Revised.....50442
842.155-842.157 Added.....50443
842.161 Amended.....50443
842.162 Revised.....50443
842.163 (a)(1)(ii) revised.....50443
842.164 Amended.....50443
842.165 Added.....50444
842.170—842.181 (Subpart O) added.....50444
844 Added.....47427
865.3 (a) amended.....*16623
865.5 Removed; new 865.5 redesignated from 865.6.....*16623
865.6 Redesignated as 865.5; new 865.6 added.....*16623
865.7 (c) revised; (d) added.....*16624
865.8 (a) revised; (e)(3) amended.....*16624

32 CFR—Continued 41 (42*) FR Page

Chapter VII—Continued

865.10 (a) amended.....*16624
865.12 (a)(5)(i)(5) and (c) revised; (a)(5)(i)(6) through (9) added.....*16624
865.13 Revised.....*16624
865.14 (e) amended; (f) revised; (g) added.....*16624
865.15 Removed; new 865.15 redesignated from 865.16.....*16624
865.16 Redesignated as 865.15; new 865.16 redesignated from 865.17.....*16624
865.17 Redesignated as 865.16; new 865.17 redesignated from 865.18.....*16624
865.18 Redesignated as 865.17; new 865.18 redesignated from 865.19.....*16624
865.19 Redesignated as 865.18.....*16624
865.100—865.111 (Subpart B) revised.....53992
Revised.....*23601
879 Added.....49630
888e.8 (a)(2)(i) and (ii) amended.....31532
888e.12 Revised.....31532
888e.14 Heading revised.....31533
888e.18 Amended.....31533
888e.20 Heading revised; text amended.....31533
888e.22 Revised.....31533
888e.24 Revised.....31533
888e.26 Amended.....31534
888e.34 Revised.....31534
888e.38 Amended.....31534
888e.40 Revised.....31534
888e.42 (b) amended.....31534
888e.44 Amended.....31534
888e.46 Amended.....31534
888e.48 Amended.....31534
889 Revised.....34952
889.10 (a) and (b) added.....46855
889.13 Revised.....46855
890 Revised.....52672
901 Revised.....47427
908 Revised.....31205
959—960 (Subchapter P) added.....30009
959 Added.....30009
960 Added.....30011
968 (Subchapter Q) Added.....34962

NOTE: Symbol (*) refers to 1977 page numbers.

1977–1978

(Regulations published from July 1, 1977 through June 30, 1978)

32 CFR

42 (43†) FR Page

Chapter VII

804 Removed.....†22970
806b.13 Revised.....†19230
806b.18 Revised.....†19231
806b.58 (m) revised.....41409
809 Removed.....†22970
809b Removed.....†22970
809c Removed.....†22970
816 Redesignated as Part 983.....†1070
819b Added.....53958
835 Added.....†22030
842.49 (a)(1), (b)(1), (2), (3) (iii) and (iv), (c), (e)(4), (g), (h) introductory text, (h)(1) heading, (h)(i) (*d*) and (*e*), (ii), and (2) revised.....†7316
842.83 (b)(1)(i)(*c*) and (*d*), (ii) through (v) and (c) revised; (b)(1)(i)(*e*) and (*f*) added.....†7316
842.110 (a)(1)(iii) and (2)(vi) added; (a)(2)(iv) and (v), (3), (4), (5)(i), and (f) revised.....†7316
842.125 (a)(1)(iii), (iv), (2), and (3) revised; (a)(1)(v), (vi), and (c) added.....†7316
842.148 Revised.....†7317
852 Added.....42684
861 Redesignated as Part 984.....†1070
865.7 (d) added.....†1619
865.13 Revised.....†1619
865.14 (f) and (g) revised.....†1619
865.100—865.126 (Subpart B) revised.....†20795
865.101 Amended.....36450
865.103 (b) amended.....36450
865.107 (d) amended.....36450
865.109 (e) introductory text revised; (e)(3) redesignated as (e)(4) and revised; new (e) (3) added.....36450
(e)(3) amended.....†2394
865.112 Amended.....36450
872 Removed.....†22970
873 Removed.....†22970
874 Removed.....†22970
880.0–880.24 Designated as Subpart A; eff. 10–24–77.....†6766
880.35—880.38 (Subpart B) Added; eff. 10–24–77.....†6766
881 Removed.....†22970

32 CFR—Continued

42 (43†) FR Page

Chapter VII—Continued

882 Removed.....†22970
886 Removed.....†22970
888c Removed.....22970
888g Added.....†4605
888h Added.....†10908
905 Removed.....†22970
906 Removed.....†22970
908 Removed.....†22970
955 Removed.....†22970
983–984 (Subchapter S) added.....†1070
983 Redesignated from Part 816.....†1070
Removed.....†22970
984 Redesignated from Part 861.....†1070
985 Added; eff. 8–3–77.....†6767
Removed.....†16979

NOTE: Symbol (†) refers to 1978 page numbers.

1978–1979

(Regulations published from July 1, 1978 through June 30, 1979)

32 CFR

43 (44Δ) FR Page

Chapter VII

806a Removed.....Δ32681
806b Revised.....Δ23068
806b.16—806b.18 (Subpart E) introductory text correctly removed.....Δ26739
806b.16 Corrected.....Δ26739
807a Removed.....Δ32681
811 Revised.....33241
811a Revised.....33907
818a Revised.....58088
819 Revised.....Δ28801
822 Added.....37687
825a Revised.....Δ20681
832.1—832.9 (Subpart A) revised.....51764
832.3 (c) introductory text corrected.....59486
832.40—832.46 (Subpart D) added.....51765
837 Revised.....35478
Technical correction.....42249
842.8 (a)(1) heading revised.....Δ35220
842.12 (a) amended; (c) revised.....Δ35220
842.24 Amended.....Δ35220
842.31 (c) revised.....Δ35220
843.32 (a)(1) revised; (b) and (c) added.....Δ35220

NOTE: Symbol (Δ) refers to 1979 page numbers.

32 CFR—Continued	43 (44Δ) FR Page
Chapter VII—Continued	
842.43 Amended	Δ35220
842.46 (d) added	Δ35220
842.49 (e) revised	Δ35220
842.54 (c)(4) revised	Δ35221
842.141 (a) revised	Δ35221
842.143 (b) revised	Δ35221
842.145 (a) revised	Δ35221
842.147 (a) revised	Δ35221
842.148 Revised	Δ35221
862 Added	54625
875 Revised	36924
885 Revised	35687
887 Revised	38386
888 Revised	36071
Revised	Δ36945
889 Revised	38388
902 Revised	39089
920 Revised	Δ26871
931 Revised	39101
950 Revised	32411
952 Revised	33908
953 Revised	33912

1979–1980

(Regulations published from July 1, 1979 through June 30, 1980)

32 CFR	44 (45°) FR Page
Chapter VII	
801 Revised	*3030
802 Added	55563
806b Authority citation corrected	66816
810 Removed	45623
811 Revised	*17991
811a Revised	*32301
812 Revised	71825
813 Revised	71828
813a Removed	45624
818 Revised	*9898
819a Revised	*14848
819b Redesignated as 841	*43410
820 Removed	*18374
841 Removed	*12780
Redesignated from 819b	*43410
845 Revised	75633
846 Removed	*12780
853 Added	60090
860 Revised	69288
866 Removed	*26037
879 Removed	47540

NOTE: Symbol (Δ) refers to 1979 page numbers.

NOTE: Symbol (*) refers to 1980 page numbers.

32 CFR—Continued	44 (45°) FR Page
Chapter VII—Continued	
880.0—880.24 (Subpart A) revised	*31113
881 Added	64075
885.3 (a)(4) revised	*19231
885.7 (d) revised	*19231
885.14 Amended	*19231
885.17a Added	*19231
885.20 Amended	*19231
888.2 (d)(2)(iv) amended	*26037
888.4 (b), (d)(1) introductory text, (2), (3)(i), and (4)(ii) revised	*26037
888.5 (d) revised	*26037
888.12 (a)(6) removed	*26037
888a Removed	*39502
888f Removed	*15175
888h Revised	74820
889 Revised	*25060
901 Revised	56930
903 Revised	47929
907 Removed	*39503
909 Revised	*6381
940 Removed	45624
953 Revised	*23423
988 Added	54479

1980–1981

(Regulations published from July 1, 1980 through June 30, 1981)

32 CFR	45 (46†) FR Page
Chapter VII	
800 Removed	64909
814 Removed	60430
817 Removed	†19234
826 Removed	†10721
828 Revised	73653
853 Removed	52800
859 Revised	62427
865.200—865.208 (Subpart C) removed	55422
875.4 (e)(5)(ii) amended	†15506
875.6 (a)(3)(i) amended	†15506
875.9 (a)(3)(i) amended	†15506
875.12 Amended	†15506
877 Revised	62427
888.2 (c) table and (f)(5)(i) introductory text and (A) revised; (f)(2) (v) and (vi) and (5)(ii) removed	58118
888.3 (d)(5) amended; (d)(9) added	58118

NOTE: Symbol (†) refers to 1981 page numbers.

32 CFR—Continued

45 (46†) FR Page

Chapter VII—Continued

888.4 (e)(5) (i) and (iii), (g)(2) introductory text, and (h)(1) revised; (h)(5) introductory text, (i), and (ii) amended; (l) and (m) added 58118

888.5 (a) and (i)(2) amended; (b)(1) (i) and (ii), (j), and (k)(4)(ii) revised; (k)(1) removed 58119

888.6 (b)(4)(i) and (6)(v), (c)(3) (iv) and (v), (d)(2), (e)(2)(v), (B) and (C), (g)(1)(i), and (h)(1)(iii) revised; (b)(8), (e)(2)(i) and (f)(1) amended; (b)(5) note and (d)(6) added; (c)(3)(iii) and (e)(2)(v)(D) removed 58119

888.7 (a)(1)(vii) and (da) added; (d)(8)(i) amended; (d)(9)(iii) revised 58120

888.11 Revised 58120

NOTE: Symbol (†) refers to 1981 page numbers.

32 CFR—Continued

45 (46†) FR Page

Chapter VII—Continued

888d Revised 52146

955 Added 49922

1981–1982

(Regulations published from July 1, 1981 through June 30, 1982)

32 CFR

46 (47Δ) FR Page

Chapter VII

806b.22 (a) amended 54730

(b)(21) added Δ26618

870–875 (Subchapter H) Removed Δ13521

870 Removed Δ13521

875 Removed Δ13521

888.7 (e) through (g) redesignated as (f) through (h); (da) redesignated as new (e) 35642

888d Removed Δ13521

892 Added Δ13521

892.8 (h) revised Δ16780

NOTE: Symbol (Δ) refers to 1982 page numbers.